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ABSTRACT

This document contains papers presented at the Seventh National Conference of the Children's Rights Council, also known as the National Council for Children's Rights. The papers presented were: (1) "Alternatives to the Adversarial Process for Resolution of Child Custody Cases" (Hugh McIsaac); (2) "New Decision Making Models in Child Protection Cases" (Nancy Thoennes); (3) "Socializing Techniques: Positive Parenting in a Hostile Environment" (Kris Kline); (4) "How To Prepare for Your Day in Court" (Karen Chandler); (5) "Improving the Legal System Response to Allegations of Sexual Abuse Involving Very Young Children" (Howard Davidson); (6) "The Custody Revolution" (Richard Warshak); (7) "Revising the Child Abuse Prevention and Treatment Act--Our Best Hope for Dealing with Sex-Abuse Hysteria in the United States" (Richard Gardner); (8) "How To Better Distinguish between Real and False Allegations of Child Sexual Abuse" (Dean Tong); (9) "What Children Need from Parents after Separation and Divorce" (Risa Garon and others); (10) "Grandparents as Resources for Children and Grandchildren" (Ethel Dunn); (11) "The Crisis, Courage, and Challenge of Single Parenting" (Suzy Yehl Marta); (12) "Play Therapy for Adults: Enriching the Child Within" (June Hutchison); (13) "Understanding Child Psychotherapy (or) When Talk Isn't Cheap" (Kim Boedecker-Frey); (14) "Symposium: A New Financial Child Support Guideline for the States To Consider" (Roger Gay); (15) "Maximizing Child Support" (Donald Bieniewicz); (16) "The Use and Misuse of Mental Health Experts in Child Custody Cases--Relocation" (Arnold Rutkin); (17) "The Use and Misuse of Mental Health Experts in Child Custody Cases--Standards" (Ronald Henry); (18) "How Parents Can Use Life Insurance To Provide for the Financial Security of Their Children after Divorce" (Ted Knight); (19) "How To Work with the Courts and Commissions" (H. W. Burmeister and others); and (20) "Working with the Media and State Legislatures" (Eric Anderson). (TJQ)

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Presentations at CRC's Seventh National Conference

"Beyond Rhetoric: Assuring a Child's Right to Two Parents"

Holiday Inn
Bethesda, Maryland
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Welcome from David L. Levy
President, CRC

I would like to welcome all of you to the Seventh National Converence sponsored by the Children's Rights Council (CRC), also known as the National Council for Children's Rights.

I would like to quote to you from my introduction to CRC's first published book, entitled "The Best Parent is Both Parents, a Guide to Shared Parenting in the 21st Century," that is being published in May, 1993 by Hampton Roads Publishing Company.

The book is the distillation of the efforts of many people, including all of you who are working to improve the lives of children and families everywhere. We thank you!

The introduction to the book is as follows:

Children should not have to "lose" a parent because of divorce.

Yet courts in America operate on the win/lose principle. One party is declared a winner, and the other a loser. As badly as this principle works when the dispute does not involve custody of children, when the issue does involve custody—the win/lose principle is ghastly.

The child did not ask his or her parents to divorce; the divorce is not the child's fault.

Children come into the world with two parents; they should be able to retain two parents, both a mother and a father, if possible, during their formative years. There are situations where it will be impossible to have two living, loving, functioning, parents for a child. But two parents should be the norm, the goal, for children. Why?

Researchers may disagree on many things, but one thing they all agree on is that children generally do better when they have two parents rather than one. Many children of single parents turn out fine; but statistically, they are more at risk than children with two parents.

Children with only one parent are more at risk of getting involved with drugs and crime, of having lower self-esteem, of having alcohol problems, and of being unable to form a lasting relationship of their own when they become adults. They are also more at risk of a variety of other social and mental health problems.

Divorce affects one million children a year, with long-range negative effects on these children. In addition, about one million children are born of unwed parents each year, and a high percentage of such children do not have even one functioning parent, let alone two.

It took two parents to have a child; it takes two parents to raise a child.

Our society should not expect one parent to do the work of two. If it does, the parent who raises the child is overburdened, while the other parent is underinvolved.

What our society has done is to regard the mother as the caregiver, and the father as the financial provider. This is especially true in divorce, where fathers are not so much absentee parents as they are forced-away parents. They are told that their role is just to provide money, not nurturing.

Custody is still almost automatically given to women. The Census Bureau says 85 percent of single parent households are headed by women.

It would not help children to reverse those figures, in order to have most households headed by men, because then children would still have only one parent.

America needs to encourage family formation and family preservation—an intact family with a mother and a father.

If divorce occurs, the model of two parents that the child had during the marriage should be what the child has after divorce. This means shared parenting or joint custody—with both parents sharing in raising of the child after divorce.

It does not mean that the parents would have to have a 50-50 split of time with the child, although that might be possible if the parents live near one another. But it does mean that each parent would have liberal access to the child and a share in the decision-making affecting the child's upbringing.

If parents live near each other, shared parenting is easier to work out than if they live at some distance, but even long distance sharing can work, with a larger block of time in the summer, longer Christmas and Spring breaks, and liberal phone access between child and parent.

Our society has not yet recognized the benefits of shared parenting for children of separation and divorce, because it has not yet absorbed the research showing that two parents are better than one for children.

But there is hope on the horizon. Both liberals and conservatives have begun to recognize the harm we are doing to our children by denying them the right to two parents.

Both the liberal Progressive Policy Institute and the conservative Family Research Council said in 1990 that our society needs to emphasize the two-parent family. The Family Research Council talked of a "parenting deficit" and the Progressive Policy Institute talked of tax policies that could help two parents.

In this book, we analyze the crisis in family law in the U.S., describe shared parenting in more detail, give the results of research on custody, and provide lots of other information about family life.

We hope this book will help children to get the better life that they deserve.

Shared parenting is no panacea. Life is full of problems. But we as a society must do what we can to preserve not only "The Magic Years" of early childhood that author Selma Freiberg has described, but also the joys of childhood for all children.

1. Alternatives to the Adversarial Process for Resolution of Child Custody Cases

Hugh McIsaac

Immediate Past Director, Conciliation Court of Los Angeles, CA, now Director of Family Court Services, Multnomah County (Portland) Oregon

Adapted from a presentation to the Beverly Hills, California, Bar Association.

Introduction

We need to discuss language in general and linked to custody — a framing of the issues. To begin I would like to take a theme from "The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy," Martha Nussbaum: — a classic

> "We see a child approaching, floating above the ground as if carried by the wind. A child royally dressed, his face shining with simple dignity. Perhaps is a young god; or some human child divinized for his beauty or his swiftness. "Here I am," the child begins, in a voice that seems to express trust and openness. The unaccustomed sight of a child on the tragic stage, opening a play, elicits from us, in turn, a simple directness of response. We think, briefly, of potentiality and hope; of the beginnings of noble character; of the connection between noble character and this childish truthfulness. We feel, perhaps, in this moment, our love for our own children. Then we hear it. "Here I am." Back from the hiding-place of the dead and the gates of darkness. Polydorus, child of Hecuba and Priam." We are watching, then not a child but a dead child. A child-ghost. A shade without hope, its possibilities frozen. And there is more. This child, as he soon tells us, has been brutally murdered by his parents' best friend, to whom they had entrusted him for safe-keeping in wartime. Killed for his money, he has been tossed, unburied, into the waves that break on this Thracian shore."

The child then takes us into the play's central issues, describing his life in the home of the killer, Polymestor:

> "As long as the boundary markers of this country stood straight and the towers of the Trojan land were intact, as long as my brother Hector had good fortune with his spear — so long I lived with the Thracian, my parents' guest-friend. I grew like a young shoot under his nurture."

Euripides begins this play in a very unusual manner to evoke in us the hopes and deep feeling we connect with the life and growth of children — only to shock us with the news that this is a child whose future does not exist. From the beginning, this view is an assault upon our fondest thoughts about human safety and beneficence.

A young child is like a green plant: its growth to maturity and good character depends on the provision of nourishment from without. Put in the mouth of a murdered child, this image makes us recall that our possibilities for goodness depend upon the good faith of others, who are not always faithful. Even healthy plants can be blasted from without by storms, disease, betrayal. It also suggests a theme I will return to in my conclusion — the responsibility of the community for the growth of its children.

Euripides makes us think about the central concerns of this disturbing play: the nature of good character, its connection with a child's trusting simplicity, its vulnerability to disease when trust is violated. The play begins with healthy, normal adults. By its end we witness the transformation of two of its central personages into beasts, and we witness the betrayal of a friend and the violation of youth for unclear, selfish ends. This play examines the darkest side of human nature often revealed in custody disputes, and it links this dark side to the growth and development of a child.

Deep human agreements, or practices concerning value are the ultimate authority for moral norms. Hecuba moves quickly from bankruptcy of trust to the value of solitary power-seeking vengefulness, forcing us to examine the connection between the aim of self-sufficiency and closure and the balance between simplicity and purity and the complex realities of life which provides a richness and diversity. Hecuba also forces us to examine the motive of revenge and how this reduces its possessor to the same level as the perpetrator and how such avenues are of such futile promise.

These are the themes we need to examine in regard to language and custody: (1) the nature of good character, (2) the dependency and vulnerability of childhood, (3) the effect of context upon the human condition, and (4) the connection of us all to the final outcome — beyond the notions of victim and perpetrator; good and evil; right and wrong.

Language is our handle upon the world, a consensually validated view allowing us to learn from one another and to bridge the consequences of time.

Irving Goffman, sociologist
Labelling theory: personal identity, public identity

A passage from Marcel Proust, "Remembrance of Things Past," demonstrates the beauty of language and its imperfections. A language provides a linkage between ourselves, our perceptions, and others. It also provides an artist's view of how labels are formed. Much conflict is structural — defined by our definition of the other.

Marcel Proust, "Remembrance of Things Past," Page 15,

describing his friend Swann in this classic work:

"But then, even in the most insignificant details of our daily life none of us can be said to constitute a material whole, which is identical for everyone and need only be turned up like a page on an account book or the record of a will; our social personality is created by the thoughts of other people in the simple act we describe as "seeing someone we know." It is to some extent an intellectual act. We pack the physical outline of the creature we see with all the ideas we have already formed about him, and in the complete picture of him which we compared in our minds those ideas have certainly the principle place. In the end they come to fill out so completely the curve of his cheeks, to follow so exactly the line of his nose, they blend so harmoniously the sound of his voice that these seem to be no more than a transparent envelope, so that each time we see the face or hear the voice it is our own idea of him which we recognize and to which we listen... but they contrived also to fit into a face from which its distinction had been evicted. A face vacant and roomy as an untenanted house to plant in the depths of its undervalued eyes, a lingering sense uncertain, but not unpleasing half memory and half oblivion, of idle hours spent together after our weekly dinners around the card table or in the garden, during our companionable country life. Our friend's bodily frame had been so well lined with this sense and with various earlier memories of his family, that their own Swann had become to my people a complete and living creature; so that even now I have the feeling of leaving someone I know for another quite different person when, going back in memory, I pass from the Swann whom I knew later and more intimately to this early Swann — this early Swann in whom I can distinguish the charming mistakes of my childhood, and who, incidentally, is less like his successor than he is like the other people I know at that time, as though one's life were a series of galleries in which all the portraits of any one period had a marked family likeness, the same (so to speak) tonality — this early Swann abounding in leisure, fragrant with the scent of the great chestnut tree, of baskets of raspberries and a sprig of tarragon."

Proust has provided an absolutely brilliant grasp of the perception of individuals—times past and times present. People exist and realities exist according to the labels we apply and the labels are language.

The linguist, Naom Chomsky, in Language and the Problem of Knowledge, "Language may either enlighten or imprison—it is a paradox."

Plato's Problem: How can we know so much given that scarce evidence? Chomsky is impressed by our capacity to inductively bring together concepts such as the atom. Here we collect bits of information and reach deep insights about the nature of our existence.

Orwell's Problem: How is it we know so little given the overwhelming evidence to the contrary? Chomsky is impressed how totalitarian regimes instill beliefs without foundation and at complete variance to the obvious facts. It provides a valuable prism through which to review the issue of the language of divorce.

Let us turn to the language of divorce: Isa Ricci describes them as "stinkweed" words. Children are in "custody" of one parent while another parent "visits." It is the custody of prisons and mental hospitals.

How have we come to this road? Language is a reflection of history. Language can liberate or imprison. Let's look briefly at the history of custody and the cycles of preference.

Roman Law

- fathers owned the family
- Percy Byasse Shelly, Mary Godwin (author of Frankenstein)
- married Harriet, innkeeper's daughter
- 2 children
- goes off to Chillon with Lord Byron, Claire, Mary
- becomes Morgan/Foretich dispute of its day, tender year's doctrine.
- Freudian psychoanalytic thought, Solnit Goldstein and Freud—Beyond the Best Interest
- 1970's—two homes, Isolina Ricci, joint custody
- problem of sole custody - Academy Award style, "the winner is"—

Mnookin's paradigm—"Bargaining in the Shadow of the Law"

Cycles of Concern:

(new old) themes being raised: "primary caretaker," Justice Neilly, West Virginia; Martha Fineman, "In the Dominant Discourse, Professional Language and Legal Change in Child Custody Decision Making," Harvard Law Review, February 1988

New language — parenting plan, child shall live with, share responsibilities — was introduced in the Bates bill AB 2621, 1990, which Commissioner Schnider and I wrote. This bill was copied from the Washington State and Florida statutes. In England in 1990 — Children's Bill.

This bill eliminated the words "custody" and "visitation" and substituted language such as "parenting plan," "cooperative parenting," "shared responsibilities," "live with," and "be with." These jurisdictions leapfrogged joint custody.

California and states which have adopted joint custody language encounter resistance to the new language; in a sense we are frozen in time. If you are the father of joint custody and someone wants to eliminate the word, it is very threatening. A problem with the word "joint custody" is that it sounds like possession of a controlled substance. The Law Revision Commission may consider the change of language. Even though there is some legislative resistance to the

change, already 70 percent of contested orders use this language. Conciliation Court agreements (5,500) used this language last year.

"Parenting plan" is already in the code. CC 4600(d) "this section establishes neither a preference nor presumption for, or against, joint legal custody, but allows the court the widest discretion to choose a parenting plan which is in the best interest of the child.

This is language we can incorporate in the private agreements of the parties with whom we work. Law and legislation is most often conservative following the changes already taken place and codifying them for future use. It is up to us to initiate this change. Reflects the change in families—May be seeing the emergence of a new family system not better or worse, merely different. (old extended family)

In conclusion, we need to construct a new language to fit these new family systems: New Zealand's Justice Silvia Cartwright in the Family and Conciliation Courts Review cites the Maori notion of family. A child does not just belong to the parents but to whenau, a new family system. We need new language. The language needs to be liberating and enhancing of the human spirit. It needs to be flexible and fit all families and not create impossible problems for those families who do not fit these conditions. Finally, this language must be responsive to the needs of all children and to the special language of youth rooted in the need to be loved and cared for and not being possessions or powerless pawns in an awful political struggle.

It must be a language of hope.

2. New Decision Making Models in Child Protection Cases

Nancy Thoennes, Ph.D.
Co-director, Center for Policy Research, Denver, Colorado

By the mid-1980's many juvenile courts around the nation were struggling to manage ever increasing numbers of child protection filings. For example, between fiscal years 1982-83 and 1983-84, the Los Angeles court system experienced a 42 percent escalation in case filings. Many factors contributed to this trend. Reports of child maltreatment have risen from 10.1 reports per 1,000 children in 1976 to 23.6 reports in 1983. In addition, legislation passed in 1980 and modified in 1983 specified that courts must routinely review cases involving children in out-of-home placements, must have a long-term plan developed within 18 months, and must make formal findings that "reasonable" efforts were made to avoid or eliminate the need for placement.

The juvenile courts have responded to these increased demands by developing a number of programs that allow for greater non-judicial participation in decision-making. One recently completed study, and one recently initiated study, at the Center for Policy Research explore some of these new decision-making approaches. Both studies were funded by the State Justice Institute.

The most recently funded study, which began in January, 1993 and will conclude in 1995, explores alternatives to judicial review of foster care cases. The federal mandates requiring six month reviews of cases involving placement, have led many communities to consider methods of review that do not rely solely on judges. Two major alternatives are citizen review boards and administrative boards.

Administrative boards are housed within the CPS agency, but often the reviewers are in a separate unit, apart from those workers providing services to families. Some administrative boards also include individuals from outside the agency, including citizen participation. Citizen review boards are comprised of individuals from the community appointed through a variety of mechanisms (e.g., judicial appointment).

Both citizen and administrative boards receive input from family members, foster parents, CPS workers, treatment providers and others. Although judges retain the final decision-making authority, these boards gather information and make recommendations regarding case goals, when and if to attempt reunification, and treatment plans. No empirical research to date has explored the similarities and differences in the recommendations of citizen and administrative boards and the decisions reached through traditional judicial review. Nor do we know the degree to which, or conditions under which, judges act on citizen or administrative board recommendations.

The study will gather data on approximately 200 cases at each of six sites: two employing citizen boards, two utilizing administrative boards, and two relying on judicial review. In

The studies described were funded by the State Justice Institute. The options expressed herein are those of the author and do not necessarily represent the official position or policies of the State Justice Institute.

addition, observations will be completed at each site, as will in-depth interviews with board members, and juvenile court and CPS staff.

A study completed by the Center in 1992, gathered data on three of the nation's first mediation services located in the juvenile court. The participating sites included the juvenile courts in Los Angeles and Orange Counties in California, and the juvenile court in Hartford, Connecticut.

The study included observations of the mediation intervention, interviews with key professionals participating in the service, and reviews of the court files (and in some cases CPS files) for slightly more than 400 cases.

The mediation services handle disputes arising at many different timepoints. For example, mediation may deal with: the need to place a child out of the home, the nature of the placement (e.g., foster home versus relative care), when and how parents will see children who are in placement, what services will be provided, or whether the child is ready to return home.

A number of recommendations and conclusions can be drawn from this study. Perhaps the most basic and fundamental is the conclusion that:

- Mediation represents a significant improvement over the pre-trial approaches utilized in most juvenile courts.

Bringing all the relevant parties together at one place and time allows for the sharing of information, opinions and ideas that can resolve disputes, clarify the issues, narrow differences, or reveal that no real dispute exists. Relying on informal meetings often conducted between hearings and including some, but frequently not all, of the parties is an inefficient, ineffective approach.

Yet another very basic conclusion from this study is that:

- Program administrators, supported by the juvenile court judiciary, must work to find approaches that will minimize the demands placed on parents to appear at the court. However, equally important is the need to find an aporoach that will reduce, if not eliminate, the likelihood that the professional participants will arrive late, leave early, or appear and disappear during the session.

Existing programs commonly report that it is difficult to stay on schedule and to conduct the session effectively and efficiently due to interruptions as parties arrive and leave. Eliminating this problem may not be possible in all systems. However, the problems can probably be lessened if the court sends a strong message to all participants that they must attend mediation and must schedule their calendar in a manner that will ensure their full participation.

Juvenile courts choosing to introduce mediation into their systems should be aware that:

- There will be initial resistance to mediation from a wide variety of sources and for a wide variety of reasons. However, if a sound program is put into place, the opposition is likely to be shortlived.
- Resistance can be reduced by including representatives from all the professions affected by the introduction of mediation to participate in the planning process.
- There must be strong judicial support for mediation to succeed. Programs are unlikely to implemented or to thrive without support from the bench. At the same time, programs that are perceived by mediation participants to be imposed by judges without consultation with other professional groups will almost inevitably be resisted.
- Opposition to mediation can be significantly reduced by selecting credible, knowledgeable, skilled mediators. Pioneer programs found participants were often willing to try the process, in part because the mediators were selected from the best CPS workers, juvenile court and family court staff.

There is no absolute consensus about what issues should, or should not, be mediated, or at what stage in the legal process mediation should be introduced. Existing programs have made a variety of decisions about these issues, and each seems to be working. However, administrators of future programs should be aware of the following:

- Many mediators and program participants would like to explore options to allow mediation to occur at the earliest stages in a case, perhaps even prior to a court filing.

There are obstacles to overcome before this becomes a practical option. For instance, mediations that occur prior to the appointment of legal counsel for the parents would require a significantly different approach from that described in this study. However, those who advocate an early intervention feel it would reduce court filings and might prevent later disputes, misunderstandings and problems.

- Mediators, program administrators, and mediation participants generally express the belief that mediation is most effective when the session deals with treatment issues. Many mediators are less comfortable dealing with jurisdictional disputes which often require fairly detailed legal knowledge.

Having said this, it must be noted that even in programs which do not officially mediate jurisdictional matters, the attorneys often use some of the session time to discuss the wording of the petition. This reflects the fact that in most juvenile courts bargaining about the petition also occurs very informally, whenever two or more of the relevant attorneys happen to see one another. Thus, by bringing all the relevant parties together mediation may enhance the negotiation of jurisdictional matters even if these issues are not a formal topic of discussion.

- Mediation can be a valuable tool prior to hearings on the termination of parental rights if a voluntary relinquishment is being considered by one or both parents.

Most programs view a potential termination case as "too far along" to benefit from mediation. However, many individuals within these programs, and individuals in programs choosing to mediate terminations, agree that there are cases in which the process is appropriate. If the parent is adamantly opposed to the termination, it is unlikely the case will be, or should be, resolved in mediation. If the parent is considering

a voluntary relinquishment, mediation offers a setting in which to explore this option.

There is a consensus that a quality mediation program should meet the following conditions:

- The mediation process should be mandatory. The program will be underutilized if participants are allowed to put their short-term desire to avoid another meeting above quality decision-making and eliminating unnecessary court hearings.
- The mediation process must be confidential. Parties will be less than candid if they are concerned that the information they share will be heard by a judge.

There is also a strong consensus that a mediation program should:

- Make special efforts to involve parents in the mediation session.

At each of the study sites we heard from mediators that they would like more opportunities to meet with parents. Mediation offers a unique chance for parents to be heard. It also provides an excellent opportunity to explain to the parents what is happening in their legal and CPS case, what will occur next, and what is being required of them. For some parents this may be the only explanation they receive. In many cases children would also benefit from a chance to hear what is and will be happening to them and to ask questions about what they hear. In addition, there is a limited amount of data from this study to suggest that participation by parents may increase settlement rates and increase later compliance.

Finally, the study also must reach the clear conclusion that there are limits to the ability of mediation to improve the child protection system.

- Mediation will only be as effective as its participants. Juvenile courts and protection agencies must be concerned with providing experienced, committed legal counsel for parents and children, and skilled caseworkers.

Mediation may help to remedy the problems created by rapid turnover among the professionals serving families or by a lack of experience. However, the remedies will be partial and necessarily less than satisfactory.

- Mediated outcomes will be only as good as the community resources that are available.

Mediated outcomes will necessarily be unsatisfactory if programs are lacking, address some, but not all, of the family's problems, are of poor quality, or are inaccessible. Mediation can be a valuable tool to the juvenile court and can offer significant improvements over traditional approaches in most courts, but it is a brief intervention that cannot be expected to compensate for other lacks in the system.

3. Socializing Techniques: Positive Parenting in a Hostile Environment

Kris Kline

Communications Specialist and co-author For the Sake of the Children, *Ellenton, Florida*

Ways to Bring About Change

Parental Responsibility Recommendations for Disunited Families:

1. Acquire effective divorced (disunited) parenting skills.
2. Practice positive co-parenting.
3. If access is being interfered with, don't give up hope, and continue to work toward a relationship with your children.

Public Policy Recommendations:

1. *Urge creation of an effective federal strategy for enforcement of parental access stipulations, perhaps as party of the Family Support Act.
2. Support implementation of court-mandated divorced parenting classes.
3. Encourage expansion of divorced parenting classes to quarterly sessions for one year.
4. Call for federal guidelines for divorced parenting classes.

Presentation

William Shakespeare referred to the world as but "a stage, where every man must play a part" (Merchant of Venice, Act I. Sc. 1). It's almost as though he were describing the situation in which we divorced parents find ourselves, because in co-parenting it doesn't matter what we think of the other parent. It only matters how we act.

We've all had experience acting, whether it was dramatic acting or social acting. We've all been called on to use our skills convincingly to project a certain image. In our everyday lives, we act out different roles, depending on the situation. Most of us project differently toward our children (confident and self-assured) from the way we act toward our parents (subordinate and trying to please). We act differently in front of our bosses (flexible) from the way we act in front

of our staff (firm). Yet, when it comes to communicating with our former marriage partners, we often feel compelled and justified in letting our true feelings go unchecked.

Throughout history most of us have learned our parenting skills from our own parents. However, as the American family has evolved over the past 25 years, family roles and relationships have been profoundly affected. Forty percent of children in America today are children of divorce. One in four is raised by just one parent. Yet, a child's need for trusting personal relationships with both parents remains paramount to his or her ability to develop fully and become a responsible, happy adult.

Children do best when they have the personal involvement and financial support of both parents, whether or not the parents are married. However, when parents do not get along and have poor or nonexistent divorced parenting skills, children are apt to lose the commitment of at least one parent. If our goal is to assure a child's right to two parents, then it is important to develop effective divorced parenting skills and to make them available to our families.

Parents should and must take emotional responsibility for their children, whether or not their marriages remain intact. Yet, when marriages disintegrate or fail to form, the nonresidential parent often does not feel a sense of responsibility for his or her children. Equally devastating, the residential parent often attempts to block the relationship between the children and their other parent. These behaviors can cause destructive emotional scars for children. Therefore, it is crucial that we provide parents with effective divorced parenting skills, and that we hold them accountable for responsible parenting.

Children of divorce want to be allowed to love both parents without having to take sides. They are not necessarily asking their parents to get along with each other, but merely to keep their disputes separate from their children's lives. Divorce, by definition, is "not getting along." However, even in conflict, it is possible to confront situations and manage anger so that mutually beneficial solutions can be invented or discovered and implemented.

Parents who spend time with their children are more apt to take financial responsibility for them, and vice versa. Because parents' personal involvement with their children is so crucial to the child's development, it is important that parents learn to communicate with each other well enough to co-parent their children productively.

Human behavior is dictated by conscious choice. You may choose to reveal your anger at your former spouse by screaming, throwing tantrums, name calling, complaining to others, becoming physically violent, or by using a myriad of other communication patterns that reflect self-indulgence and lack of control. Or you may choose to control your angry feelings and behave toward your children's other parent with dignity and self-restraint. Although the behavior of your children's other parent may, in your opinion, break the rules of civility, that is no excuse for you to retaliate, particularly in front of your children.

Popular philosophy of the 1960's and 1970's held that failing to express your true emotions toward another person, even when those emotions were hostile, was deceitful and dishonest. I disagree: it is not hypocritical to treat a former spouse in a well-mannered, civilized fashion. On the contrary, it demonstrates responsible behavior and respect for your children, and gives them a good role model to follow in their social behavior.

The idea of interacting amiably with people without friendship or respect is not new. Most of you at one time or another have had a superior at work, a teacher at school, or perhaps a coworker or an in-law, whom you didn't like. You may have thought this person was incompetent, surly, overbearing, chauvinistic, unreliable, or any other number of unflattering things that accounted for your distaste of this individual. Yet chances are you could get along with this person well enough to get the job done. You communicated with this person from the perspective of your position, rather than from any personal feelings. You used your social acting skills.

While your relationship with your former spouse may feel far more volatile than your relationship with anyone else, your goals here are far more urgent. You want to improve the situation of a disunited family for the sake of your children. This can be accomplished, even in a hostile environment. Whether or not your former spouse responds in kind, your children will benefit from the positive parenting role model you set for them.

For those of you who are presently being denied access to your children the time will come when you are reunited, and it will be especially important that you are able to create a situational peace for you and your children.

If you are committed to sharing your children's lives with an estranged spouse, you will want to learn to create a personal comfort zone for yourself when you're dealing with your children's other parent. The "therapeutic trick" to adjustment here is to make peace with a specific set of circumstances, rather than somehow trying to solve all the emotional problems you have with your former spouse simultaneously.

For instance, transferring your children from one parent's residence to the other's can be a very stressful time for everyone. However, it can become far less stressful for you if you learn to focus on the reason for the occasion, which is to transfer the children from one residence to another. Once you learn to focus on the children and the situation, rather than on your former spouse, you will feel much more in control of your emotions.

Most of the challenges in our lives require us to adapt to situations presented to us by life. Those of us who are flexible adapt more easily and suffer much less long-term anxiety and emotional trauma about those changes in our world. The more skilled we become at managing change, the more flexible we can become, and thus more likely to achieve situational peace.

Being flexible and adapting to change are not skills we are born with, but they can be learned. Acquiring new skills is a matter of practice. To gain a new talent, you must repeat the new behavior often, and in the right context.

Flexibility Exercise

It is very important to children that both parents attend the special events in their lives, such as a recital or a special sports event or a graduation or wedding. Even if you are not presently seeing your children, the time will come when you will be, and events will come up which should be shared with your children's other parent. While the thought of being in the same room with someone who has caused you terrible pain may seem insufferable, you can learn to handle it. We've all been in situations where we've had to behave politely even though we were uncomfortable doing it (court). We used our skills in social acting to get through the occasion.

As with any skill, proficiency in social acting improves and sharpens with practice, until it becomes second nature. We're going to do an exercise that will help you keep focused on your role of "parent" when attending your children's special events.

Focusing Exercise

In order to learn to communicate with your children's other parent, it will be helpful to consider <u>your child's</u> perception of this other person. The qualities you see in a person somewhat depend on whether you like this person or not, as well as whether you feel liked by this person. Most often, you do not like people whom you feel dislike you. It is therefore understandable why perceptions of former marriage partners about each other are so clearly different from those of their children.

You will want to study your former spouse from your children's point of view, just as you might study a character for a role in a play. You will want to share in your children's ideas about their other parent. This will require listening to them so that you can share in their frames of reference. Rather than closing them out whenever they wish to discuss your former spouse, you might ask questions that will help you understand how they view their other parent and what positive qualities they see in this person. Listen to your children carefully enough to understand the feelings underneath the words. It is important that you appreciate your child's need to feel good about this other parent. Regardless of whether or not you think your former spouse has a good sense of humor, if you're aware that your children think he or she does, it will make it easier for you to respond appropriately when they relate something "funny" that happened with their other parent.

It is also sometimes helpful to remember that at one time <u>you</u> saw something likeable in your child's other parent.

Role Playing

It is crucial to the well-being of your children that you learn to focus on your job as a mother or father, and not on your former position as wife or husband. In spite of your anger, you can learn to create personal comfort zones for yourself, even in hostile environments, for the sake of the children and for your own peace.

On a public policy level, I believe that court mandated parenting classes for divorcing parents reflects the theme of this conference: "Beyond Rhetoric: Assuring a Child's Right to Two Parents." I would encourage all of you to promote these classes within your district court systems. Further, I would encourage the courts to implement a follow-up policy of divorced parenting classes quarterly for the first year following the divorce decree in order to strengthen and preserve a child's right to two parents. On a national level, I would urge the federal government to set uniform guidelines for court mandated parenting classes, and to create an effective strategy for enforcement of parental access stipulations, perhaps as a part of the Family Support Act.

4. How To Prepare For Your Day in Court

Karen S. Chandler

Divorce Mediator, Paralegal, Effectiveness Trainer, Chandler Consulting, Smyrna, Georgia

Dear Parent,

Nonadversarial dispute resolution is preferable to the courtroom approach for divorcing, divorced or never married parents. However, if your child's other parent refuses the mediation or arbitration method, you could find yourself caught up in a long and expensive court battle. The following information is offered to help you remain in control and increase your effectiveness. KC

Visualizing Success

Within the context of an intimidating and confusing setting (the courtroom), the opposing attorney may use a variety of methods to break your concentration and commitment to your message. When he realizes you are well prepared and possess self-confidence, he may intensify his intimidating behavior. You stay cool. In fact, you become calmer as his hostility level increases. With every passing minute, your demeanor reinforces your position of strength. The judge believes what his eyes and ears are telling him. You are a truthful, competent, fair, concerned and loving parent.

Educate Yourself

Concentrate on these topics:

- Children's rights.
- Parenting after divorce.
- The legal system and the language of family law.
- How to work with your attorney.
- Communicating effectively with your child's other parent.
- Case documentation: When to do it, How to do it, What to do with it.
- Your day in court: Image evaluation and courtroom demeanor.

For the purpose of this summary, I will focus on IMAGE EVALUATION and COURTROOM DEMEANOR.

Image Evaluation — Voice quality, Assertiveness, Emotional control, Body Language

Voice:

Your voice quality is important because people make instant and sweeping assumptions based on the sounds coming out of your mouth.

Record yourself for five to ten minutes talking about an interesting event from your childhood. Play the tape and evaluate how you sound. If your voice is too loud, too soft, whiny, or monotonous, your credibility as a witness can be compromised. Help is available from Dr. Carol Fleming's tapes, The Sound Of Your Voice, (800-323-5552).

Assertiveness:

The threatening circumstances of adversarial proceedings can trigger two different communication styles. "Escape"—characterized by passivity and "conquer"—characterized by aggression. Used in the courtroom, these styles can be self-destructive.

Assertiveness training will give you a balanced communication style. As you learn to be assertive, you will be enhancing proper use of eye contact, body language, gestures, tone of voice and facial expression.

Emotional Control:

The courtroom is not a place to express anger and frustration. Long before your day in court, you need to establish positive ways of coping with strong emotions.

Your coping strategy may be to exercise, express your creativity, or volunteer to help others. If you feel out of control, seek professional counseling. A helpful guide is called, How To Find A Good Psychotherapist, by Judi Striano, Ph.D.

Body Language:

Studies have shown that only seven percent of the meaning in any conversation is contained in the words spoken. The majority of information is communicated through appearance, gesture, gaze, and expression.

In the courtroom, body language is called demeanor. Under cross-examination, your demeanor will be closely observed. Avoid any distracting gestures and strive to communicate a calm, cooperative spirit.

Courtroom Demeanor

In the courtroom, you are likely to encounter some of all of the following OPPOSING ATTORNEY'S TECHNIQUES (1A-5A). The corresponding WITNESS TECHNIQUES (1B-5B) will explain subtle ways for you to remain in control and increase self-confidence

THE ESSENCE OF THE OPPOSING ATTORNEY'S ROLE IS TO DISRUPT YOUR CREDIBILITY.

YOUR GOAL IS TO REMAIN UNAFFECTED BY HIS WORDS AND COMMUNICATE YOUR MESSAGE.

OPPOSING ATTORNEY'S TECHNIQUES = A
WITNESS TECHNIQUES = B

1. A) The cross-examiner uses negative, hypothetical, inflammatory or incorrect words.
   B) The use of these words is intended to evoke emotion. Take control. Do not legitimize the words by repeating them. Substitute a less provocative word. Example:

Attorney says "fight"—you say "incident." Calmly correct any false statements made by the cross-examiner.

2. A) The cross-examiner questions you in an aggravating, aggressive manner.
   B) Your technique is to become calmer as the opposing attorney's aggression escalates. Maintain eye contact with him when possible. Lean slightly forward to convey fearlessness and cooperativeness.
3. A) Some cross-examiners will test your concentration and composure by refusing eye contact, shuffling papers, or taking notes.
   B) Your technique is to ignore the distracting behavior. Maintain your composure by making eye contact with any neutral or friendly person in the courtroom. Speak directly to the judge when possible, especially when he is observing or questioning you.
4. A) During questioning, the cross-examiner may refer to your previous testimony—a phrase, an idea or sometimes just a single word. His method is to inject a bias that could make your testimony seem like an admission of, or reinforcement for, his client's position.
   B) Your technique is to resist contradicting yourself. Ignore the attempt to discredit your words and ideas. Calmly reinforce or clarify your original position.
5. A) The cross-examiner may interrupt your testimony with another question or complain to the judge that you are "giving speeches."
   B) You may be interrupted, because the cross-examiner feels you are building credibility and he wants it to stop. Stay calm. Your attorney may intervene with an objection or the judge may inform you when to resume your testimony.

Tips For Courtroom Behavior

- Answer questions truthfully. Give shorter answers to tough questions.
- Address the judge as "Your Honor," not "Judge Smith."
- Eliminate qualifiers and hedges from your testimony. Examples: "very," "perhaps," "I think," "really," "to the best of my knowledge." Never say, "To be honest...."
- Be prepared to answer questions about your child's right to benefit from the decision-making powers of both parents.
- Be prepared to answer specific questions about your goals and values as a parent.

After Your Day in Court

Court hearings are stressful. Regardless of the outcome of your case, you may feel drained of energy and dejected. Plan a relaxing activity or spend some time with your best friend, support group, or mentor.

The experience of a courtroom custody battle may make you aware of the need for changes is your state's domestic laws and court systems. Write to your legislators in support of laws that would mandate mediation and favor cooperative parenting after divorce.

5. Improving The Legal System Response To Allegations Of Sexual Abuse Involving Very Young Children

Howard Davidson
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I. The Scope of Child Molestation in America — And the Legal Response

Approximately 833,000 American children reported to child protection authorities in 1990 were found to be substantiated or indicated victims of child abuse and neglect. Of these, approximately 16% (or about 133,000) of the children were confirmed victims of (generally intrafamilial) sexual abuse. One national study of sexual abuse committed by parents and caretakers puts this figure at higher than 150,000 annual victims.

Most of these children might never have been identified as molestation victims were it not for the existence of state mandatory child maltreatment reporting laws. Yet studies indicate as much as 50% of known sexual abuse of children is never reported to authorities.

If one adds to these reported and unreported cases of child sexual abuse those molestation offenses committed outside of the family (cases which are unlikely to be recorded in official reporting tabulations and which are estimated to constitute from 10 to 50% of all child sexual abuse), then the total incidence of child sexual abuse could easily be over 500,000 cases annually.

Indeed, the incidence of actual sexual abuse of children is considered to be much higher than any annual substantiated

case figures suggest. Studies of the general population of adults show that anywhere from 14% to 38% of females were sexually abused as children, and the number of male victims is often cited at 10%.

From several surveys and writings of professionals who work with troubled adults (both childhood abuse victims and perpetrators), we know that there are many survivors of child sexual abuse who were neither listened to nor believed when they initially disclosed their abuse. They received no help, and their perpetrators went unpunished. By any estimate, their numbers far exceed those adults who have been wrongfully accused of child molestation.

One of the greatest controversies related to child sexual abuse is the question of how frequently abuse claims may be fabricated, particularly in the area of marital dissolution-related accusations. It is not uncommon to hear suggestions that (a) allegations of child sexual abuse have been occurring in epidemic proportions in divorce-related custody and visitation disputes, and that (b) in general, large percentages of sexual abuse claims are found to be intentionally false. Yet, impartial research surveys refute both propositions.

A 1988 Association of Family and Conciliation Courts study of more than 9,000 cases of disputed custody and visitation in eight different court systems found sexual abuse allegations to occur in less than 2% of these cases. When investigators and custody evaluators were asked about validity of divorce-related allegations, 50% of sexual abuse reports were deemed probable, 33% appeared to involve no abuse, and in 17% of cases a determination of validity was not possible. In those cases where an opinion about accuser motivation was given, only 14% of reports were thought to have been deliberately false.

Any suggestion that medical, mental health, or social services professionals have an economic justification for encouraging groundless child sexual abuse accusations is ludicrous. The volume of reported child maltreatment cases has swamped child protective programs. Federal support for such programs is minuscule. (The Federal Child Abuse Prevention and Treatment Act provides grant funds to states based on a population, not abuse reporting, formula. If this federal support was allocated according to reported cases, the total would average under $8.00 per case.)

It is in the self-interest of the child protection community to quickly terminate involvement in unfounded cases of abuse so that confirmed cases will receive prompt protective intervention. Indeed, the high rate of unsubstantiated reports of child abuse and neglect demonstrates that the child protective system is doing what it should: Conducting investigations to separate out and quickly close cases where unlawful child maltreatment can not be established, so that coercive intervention and costly agency resources can be limited to cases in which children are in the greatest danger.

II. What Do We Really Know About How to Determine Whether Child Sexual Abuse Has Occurred?

Many who work outside of the legal arena sincerely believe there is a lack of justice for either sexually abused children and their protective parents or for innocent adults accused of such abuse. Most of these people have suffered from the imperfections of the legal process in resolving complex cases of sexual abuse allegations involving very young children. I share with them the concern that our statutes and judicial processes designed to assure adequate justice in reported child molestation cases are, in many cases, failing to work.

Yet the truth is: We know how to handle these cases properly, but we simply lack the political will to allocate the financial resources needed to do so.

In my 13 years at the American Bar Association, I've seen a dramatic increase in the amount of legislation, and the volume of useful literature, designed to help assure that reports of child sexual abuse are handled correctly. There are now many books, articles, conferences, workshops, and even national resource centers devoted to the topic of fairly assessing a complaint of child sexual abuse.

However, there are also those who seek simple solutions to complex problems. They have developed abuse probability rating scales, medical evidence evaluation guides, behavioral characteristics checklists, or other instruments that are purportedly designed to prove, or disprove, that sexual abuse took place. Not one of those has ever been independently evaluated to determine its reliability.

On the other hand, I know of no scientific research refuting the following proposition: For assessment purposes, what the child himself or herself says actually happened is the best, although not absolutely conclusive, evidence of what really occurred. When a child spontaneously discloses their abuse to a trusted person, and then immediately recounts their experience in detail to a well-trained professional, we can be relatively certain that the abuse occurred.

Despite claims of easy and widespread brainwashing of children and "parental alienation" (claims, I must add, made in the defense of actual perpetrators, as well as on behalf of the truly innocent), there is ample available material to guide properly trained, independent assessors in determining for most (but certainly not all) cases what truly happened to a child. Of course, such a determination can not necessarily be made after one brief interview.

Ideally, at least two professionals (preferably a multidisciplinary team) should be involved in the determination process, so that there will not be isolated evaluators vulnerable to claims of "getting the child to say what they wanted to hear." The evaluators must be familiar with the very latest professional literature on the subject of child sexual abuse and proper interviewing techniques.

But what about where a parent (especially one estranged from another parent or family member, or with a bias against another adult) is the one who initially reports their suspicion

of abuse to a poorly-trained police officer or a non-professionally educated child protective caseworker?

The immense publicity about child sexual abuse does create a risk that some parents will be hypersensitive to the possibility of their child being a molestation victim. There is no doubt that very young children can—in the hands of improperly motivated or over-reactive parents (some who may have been molested during their own childhoods) and inadequately prepared interviewers—give improperly influenced statements. These statements may ultimately be misinterpreted by legal and judicial system personnel. However, there is no independent, unbiased research data to indicate how widespread this problem is.

Too often, a quick judgement about whether a child has been molested is made under the pressure of a pending criminal investigation, or because an emotionally distraught parent who believes their child is endangered must be told right away whether their child has been abused. Although prompt action is essential to protect children from the genuine risk of abuse, it should not force shortcuts in an investigation that risk the integrity of the process.

It is not enough to merely speak with and examine the child. Evaluators must also take a full family social history, including whether the parents experienced any sexual abuse themselves as a child. They must interview each of the parents separately about the allegations. It is important for these cases to be investigated in accordance with a formal protocol, using a coordinated, multi-professional approach. To do anything else is shear laziness!

III. What Do We Known About Maliciously False Accusations of Child Sexual Abuse?

Very little. It is as much a mistake to claim that children never lie about sexual abuse as it is to say that estranged parents commonly make intentionally false sex abuse accusations. On the one hand, there are influential individuals and child abuse groups claiming that false reporting is not a real problem, and that its incidence is infinitesimal; others irresponsibly throw around figures to suggest that anywhere between 20 and 60 percent of sexual abuse reports are "false" (when the proper term is really "unconfirmed"—which has a quite different meaning).

I have seen nothing to establish that deliberately false reporting of sexual abuse (i.e., the perpetration of a hoax or fraud) actually occurs in more than highly isolated situations. Yes, research suggests that there is a significant number of reports which, after investigation, can't be verified as concretely established cases of sexual abuse. In many of these, a parent's good-faith suspicions of abuse will be shown to have been wrong (and generally the parent will be relieved to hear that their child was not molested and that the cues or behavioral signs that made them suspect abuse were misread).

There will always be a considerable number of cases where, often because of the very young age of the child and the lack of absolutely clear medical evidence, the findings of abuse are inconclusive. In such cases, we simply won't be able to know, with any requisite degree of certainty, whether or not the child was a victim of a sexual offense. Where a parent's suspicion of abuse was simply wrong, or where the assessment led to inconclusive results, the label most commonly placed on these cases will be "unsubstantiated."

Yes, as stated earlier, unsubstantiated allegations do constitute a significant percentage of all reported cases of sexual abuse (hopefully, improved diagnostic practices will change this). However, this does not prove that large numbers of parents are willfully and maliciously fabricating sexual abuse stories.

Some persons (generally mothers) actually experience a "backfire syndrome." That is, they have custody of their child taken away by the court because of their allegation of child sexual abuse, even where it was sincerely made. A judge may simply become convinced, through the receipt of input from mental health evaluators or through an independent judgement, that a parent has coached their child to allege abuse; has become preoccupied with the abuse issue; is alienating the child from the other parent; and is therefore unfit to remain the child's custodian.

Thus, some sexually abused children have actually been turned over to the full-time care of their molesters. However, we have no independent research data to indicate how widespread this is.

IV. Who Are the True Victims in Contentious Child Sexual Abuse Cases?

At the ABA, I hear frequently from parents who are angry, frustrated, and desperate over the unwillingness of judges and other legal system professionals to believe them — or to believe their children. These are highly agitated individuals who have too often exhausted their savings, gone deeply into debt, and become isolated from many of their friends, family, and communities — simply because child sexual abuse became a factor in their life.

But what about the children themselves? Never do I hear from them. I've often said that regardless of whether a child sexual abuse allegation is true or not, the most severe, and long-lasting, trauma is experienced by the child — not necessarily from the physical manifestations of the sexual assaults, but from the emotional consequences of becoming the center of a maelstrom. Surely we can do more to protect the child from this.

One solution is to require that all courts where child sexual abuse is alleged appoint a trained guardian ad litem to help safeguard the interests of the child. Another is to focus judicial attention on protecting children from the severe secondary trauma resulting from the legal system's focus on them.

I once heard a juvenile court judge say that in custody or visitation related sex abuse cases he has removed children from both parents and placed them in foster care. Although I disagree with the wisdom of this approach, I understand why it is considered: Some judges want to isolate the child

from the war that's going on around them, and to assure their safety.

Unfortunately, we know almost nothing about how children are affected by the disclosure of a sexual abuse accusation — whether true or false. There is also a lack of research regarding the most therapeutically constructive ways of dealing with allegations of sexual abuse (whether true, false, or difficult to substantiate).

So, the adult victims of both true and false allegations suffer. But, I believe, the children suffer more. And when abuse has occurred, it is critical that our legal system help decisively to stop it, and help assure that the child receives proper long-term therapy (paid for, when appropriate, by the perpetrators or their insurance companies, or otherwise by government social services or victim assistance agencies). In an intrafamilial case involving a false accusation, the child may still need extended therapy to help heal their relationship with both parents.

There are alleged sexual molestation cases where the reported abuse consists of isolated occurrences of inappropriate touching of the child, sometimes during a time when the perpetrator's life was in disarray and then failed to control an infantile sexual impulse — or they simply touched a child inappropriately but without any intent of sexual gratification. There are also parents making sexual abuse allegations who appear to be hysterical or crazy.

All of us should remember that we can't know how we'd react if we became convinced that one of our children was a molestation victim. What if we and our children weren't believed? What if we had ourselves been sexually abused as children, no one had believed our complaints, and we saw history repeating itself?

The point of this is that not all sex abuse cases are alike, nor should the people affected by them be treated alike. Too often we are stereotyping both the offenders and the accusing parents and pigeonholing them into neat categories. Lawyers and judges need to be careful not to do this, for it is the children who will suffer most from inaccurate generalizations. As several experts in the field have noted, there are no easy answers in this area.

V. Have Our Laws and Court Processes Failed to Provide an Appropriate Response to Child Sexual Abuse?

At the ABA Center on Children and the Law, we began intensive work on child sexual abuse issues in 1980. There were few published articles or other writings about the legal aspects of this problem. Many states were just beginning to require the reporting of alleged child sexual abuse. Courts, especially criminal courts, were seeing relatively few of these cases. A number of states required corroborative evidence of sexual abuse beyond the child's own testimony in order for anyone to be convicted for this crime. The concept of a "special hearsay exception" that would allow out-of-court statements by the child about the abuse to be admitted into evidence at trial was virtually unknown. Special child sexual abuse prosecution units were unheard of. The U.S. Supreme Court had never issued a decision in which the special problems of prosecution in child molestation cases were addressed.

Less than a decade later (a brief time in the sphere of legal reform), all this has changed. Dozens of books have addressed legal system issues. Hundreds of important federal and state appellate court decisions have been published (including the Supreme Court's White, Wright, Craig, Coy, Stincer, Ritchie, and Globe Newspaper cases). There are several nationwide child sexual abuse legal improvement programs. Court and legal practice reform conferences at the local, state, and nationwide levels are held frequently. The ABA and leading judicial associations are all extremely involved in helping make the system work better.

Yet, the legal system's most vocal critics, among both protective parents and accused adults, have merit in their outrage: We could be doing so much more, and reforms could happen so much faster! The amount of new federal and state money being allocated to judicial system improvements in the child abuse arena is relatively small, and our legislatures don't give their courts money to hire needed support personnel, help reduce the average juvenile and family court judge's workload, or enhance the physical environment in the courthouses where the children and their parents must wait for their cases to be heard.

To upgrade the performance of judges we need more than a mandate for compulsory judicial education on child sexual abuse (although that itself is very important). We must work toward a specialized, unified Family Court with judges who hear only family cases on a full-time basis, and who sit on the court because of prior experience, demonstrated sensitivity, and a long-term interest in serving as a judge in cases involving children.

One area of critical priority is to improve the speed in which child sexual abuse related allegations are resolved in the judicial process. Whether in juvenile, criminal, or domestic relations court, cases in which the issue of child molestation is raised should receive docket priority, and case continuances should be discouraged by law.

An expedited appeals process is just as important. Parents who lose a case involving a sexual abuse accusation should not have to wait more than a few months for an appellate court review. Long delays in these cases are a disaster for the children, the parents who believe them to be victims, and the accused (who, if innocent, remain under a cloud, and, if guilty, are likely to continue to deny their culpability and avoid any efforts made to treat them).

It is also essential that judges who must act as fact-finders and decision-makers in sexual abuse cases realize that they are not infallible and do not possess all the expertise necessary to resolve complex child molestation allegations. They should be given the resources to help develop and regularly utilize a team of impartial mental health experts who can serve as consultants to the court. There must be less judicial

reliance on "hired gun" expert witnesses who are paid by one side of the case to render their testimony.

We also must require court administrators to keep careful data on the resolution of child sexual abuse cases. We need an effort to compile comprehensive statistics on how many sexual abuse allegations are determined to be valid, how many are found to have been willfully fraudulent, how many are mistaken beliefs that a child was victimized, and how many are in the "unable to determine whether abuse occurred" category.

Finally, we have to do more to help improve client satisfaction with the domestic relations judicial process involving child sexual abuse cases. If we polled all parents who have participated in child sexual abuse related litigation, I would suggest that a very large percentage of them would give the judge, court process, and the attorneys very low ratings. We need to do a better job of listening to those who have become disenchanted with the judicial system's ability to handle these cases successfully.

I probably couldn't convince a parent who has fled with their child (or secreted the child underground), because of suspected sexual abuse of their child by a parent with access to that child, to return and continue the fight that they believe was already lost. Likewise, those who consider themselves to have been falsely accused of sexual abuse are most unlikely to have positive things to say about the legal system (even if they were ultimately vindicated within it).

Many times the judicial process doesn't work the way we think it should — but that isn't a reason to give up on it. We need help from both professional legal system specialists and lay people who have experience in "the system" to make it better.

Information on the projects and publications of the ABA Center on Children and the Law can be obtained by writing to it at 1800 M Street, NW, Washington, DC 20036 or calling 202-331-2670.

6. The Custody Revolution

Richard A. Warshak, Ph.D.
Dallas, Texas

The following is an excerpt from the epilogue from the book entitled "The Custody Revolution — The Father Factor and the Motherhood Mystique" by Dr. Warshak:

For the past seventy years, under the aegis of the motherhood mystique, we have assumed that sole mother custody is the best situation for children after their parents' divorce. I hope I have succeeded in demonstrating that this assumption is unwarranted and that we will all benefit from a fundamental change in the way custody decisions are made. Let me summarize the observations that lead to this conclusion and form the intellectual foundation of the custody revolution.

- The development of the preference for mother custody had nothing to do with the best interests of children. Rather, it was based on a stereotypic view of the nature of women, a view that emerged in response to economic pressures and was supported by unproven psychological theories.
- Research has established that fathers are just as important to their children's psychological development as mothers.
- The traditional sole-mother-custody disposition produces numerous problems for all members of the family, including a deterioration in parent-child relationships.
- Divorced men can rear and nurture their children competently and are equally capable of managing the responsibilities of custody.
- Research comparing children in father-custody homes and mother-custody homes shows no difference in the adjustment of the average child.
- On the average, children in the sole custody of the parent of the same sex cope better with divorce than children in the custody of the parent of the opposite sex.
- Children who maintain meaningful involvement with both parents have a distinct advantage in coping with divorce.
- One of the best predictors of good adjustment in children after divorce is low conflict between the parents. Reliance on joint custody and mediation of custody disputes can reduce postdivorce conflict.

These observations make it clear that we need a major overhaul in how we handle custody decisions. The current system—a preference for sole mother custody and a reliance on the adversary system to resolve disputes—is bankrupt. To replace it, we need to implement the following proposals:

- Stop discriminating against fathers in custody matters and against divorced mothers who want their ex-husbands involved in raising the children.
- Tailor custody to fit the circumstances and needs of each individual family rather than force every family into the same mold.
- As much as possible, maintain the child's meaningful

involvement with both parents. Although not suitable for every family, the norm in our society should be for divorced parents to have some form of joint custody.

• Arrange for siblings to have time alone with each parent, rather than requiring all children in the family to conform to the same arrangements.

• Maximize the time a child spends with the parent of the same sex unless other factors militate against this.

• Keep living arrangements flexible and open-ended—rather than fixed for the life of the child—in order to accommodate changes in the family.

• Replace the adversary system with professional consultation and mediation as the primary means of resolving custody disputes.

As we enter the final lap of this century, I believe that the goals of the custody revolution are within reach. I see several encouraging signs. Divorced mothers, in growing numbers, are objecting to an unfair system that requires them to do the job of two parents while struggling to earn a living. This has always been too much to expect; but in the past, women kept their grievances private, unaware that their problems were shared by millions. Now that research has uncovered the widespread dissatisfaction with our current system, women feel freer to make their complaints public, and they are doing so.

Divorced fathers, too, are becoming increasingly vocal in rejecting their role as second-class citizens in the lives of their children. In a logical but delayed reaction to feminism's campaign against traditional sex-stereotyped division of roles, men are insisting that they are perfectly capable of raising their children. And they have the evidence to back them up.

I am encouraged that joint custody and mediation are capturing the attention of state legislatures and courts. Unfortunately, there is a nascent backlash against joint custody. It is my hope that books such as this will help to quiet the backlash: Joint custody is a good idea and should be given a fair chance to prove itself.

Ironically, the increase in custody litigation may also forecast the imminent success of the custody revolution. When mothers were virtually assured of winning custody, very few fathers gave any thought to bucking the system. We can assume that the increase in contested custody means that the motherhood mystique is losing its hold. The turmoil accompanying this increase in custody litigation can be likened to the social unrest that precedes a political revolution. Both are unstable situations that inevitably lead either to a return and strengthening of the old order or to the establishment of a new system.

The time is ripe for fundamental change. For the sake of our children, let us hope that this change moves us forward rather than backward, that we will not let eighteenth-century ideas guide twenty-first century custody decisions. Too many children have suffered too much already. As I bring this book to a close, I am thinking about one such child, a young boy for whom the custody revolution is too late. His suffering epitomizes what is wrong with our current system of deciding custody and why we need a radical change in our beliefs and practices.

When I first met Dick, he was not what you would call warm and engaging. He kept his emotional distance and hid his deep sense of inadequacy behind a mask of beligerence and bravado. Dick was a victim of a particularly vicious custody battle. Like many children exposed to excessive parental conflict, he chose the toy soldiers in the playroom to enact his personal tragedy symbolically, and thereby help me understand it.

Dick placed a little soldier in the middle of a battlefield. Missiles and bombs were dropped everywhere around the soldier. There was no place to run for cover. Eventually the soldier was struck by mortar that split him right down the middle. "He is coming apart," Dick said.

After he lay in two pieces on the battlefield, someone finally noticed the soldier and took him to a hospital where, Dick told me, "They find a doctor who can weld him back together again."

These are not easy times for our children. Family life has deteriorated. A sense of community has all but disappeared from most neighborhoods. Stress has mushroomed. Relatives are spread far and wide, which reduces the opportunities for children to receive the additional nurturing that instills hope and compassion. Our schools no longer serve as a refuge from domestic turmoil, as they once did. In fact, the social and academic pressures of school often exacerbate children's inner turmoil.

Violence is more prevalent and more immediate, courtesy of television and videotapes. The old warning "Don't talk to strangers" has grown into an hours-long seminar in which young children are led to believe they are responsible for protecting themselves from sexual abuse. And the media let no one forget that unspeakable cruelties lurk around many corners. And then, of course, we all live under the threat of instant annihilation.

For our children, the intact family is the last bastion of familiarity, security, and solace. So we can forgive them their difficulty understanding and accepting the necessity for divorce. We can show them how to handle difficult times with wisdom, strength, and compassion. We can create a family structure that assures children that *they* have not been divorced, a structure that safeguards their birthright to *two* parents. And we can hope for society's support in this endeavor.

Perhaps then there will be fewer little soldiers in need of welding.

7. Revising the Child Abuse Prevention and Treatment Act — Our Best Hope for Dealing with Sex-Abuse Hysteria in the United States

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Although I have been actively involved in sex-abuse accusations for over a decade, it was not until recently that I became aware of the important role of the *Child Abuse Prevention and Treatment Act* (Public Law 93-247) (sometimes referred to as "The Mondale Act") in bringing about the sex-abuse hysteria we are witnessing today. When this legislation was passed by Congress in 1974, child abuse was rarely reported. In fact, its denial and cover-up were widespread. It was Congress' intent to rectify this deplorable situation by providing incentives for states to set up programs for child-abuse research, education, prevention, identification, prosecution, and treatment. Federal funding was made available to match state funding, and this served as an incentive for states to set up such programs.

In subsequent years the law was expanded and modified (P.L. 100-294, P.L. 101-126, P.L. 101-226, and P.L. 102-295), especially with regard to the progressive increase in the amount of federal money allocated to the states. There were certain provisions, however, that had to be satisfied in order for a state to qualify for federal monies. Of pertinence to my discussion here is that participating states had to pass legislation that

1. provided immunity from prosecution for all those reporting child abuse and

2. required specific persons (such as health-care professionals, law-enforcement officials, teachers, and school administrators) to report suspected child abuse to the appropriate child protection agency. Such mandated reporting, by necessity, had to be backed up by penalties (usually fines and/or prison sentences) for failure to report. In effect, this provision has made it a criminal offense for such designated persons not to report suspected abuse.

During the next few years all 50 states passed legislation providing for the establishment and funding of the appropriate programs. In addition, funding has been provided to the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the U.S., Guam, American Samoa, the Marshall Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

It cannot be denied that those who crafted this legislation were well-meaning, and they cannot be faulted for not having foreseen the widespread grief that has been caused by the Act's implementation by the kinds of misguided and incompetent workers described in other publications of mine (Gardner, 1991, 1992). One central problem has been that state and federal money is available for the treatment of children who are found to have been abused, but no monies have been specifically allocated for the protection and treatment of those who have been falsely accused and/or children who have suffered psychiatric disturbances because they have been used as vehicles for the promulgation of a false accusation. Accordingly, an evaluator who concludes that abuse has occurred can justify recommending treatment for which state and federal monies will be provided. If the evaluator concludes that no abuse has occurred, there is no route for requesting funding for further evaluation and/or treatment.

In addition, there is a complex network of interaction and interdependence among mental health facilities, child protection services, and investigatory agencies (including police, detectives, and prosecutors). It behooves all working in this network to "cooperate" with one another because the greater the number of referrals, the greater the justification for the requisite funding. Laws mandating the reporting of child abuse and laws providing immunity from prosecution for those reporting abuse ensure an endless stream of referrals for investigators and "validators." All this predictably fuels sex-abuse hysteria, hysteria in which an accused individual's Constitutional due-process protections are commonly ignored.

These important elements contributing to the hysteria will remain operative unless legislative changes are made at both federal and state levels. Obviously, state-level changes are less likely to be enacted as long as the federal statutes remain in force. It is at the federal level, then, that the changes must be made, especially because of the immunity and mandated reporting clauses, which states cannot rescind without depriving themselves of federal funding.

These are the changes I consider crucial:

1. The federal immunity clause must be dropped. Immunity from prosecution is generally available only to specific groups essential to the functioning of the legal system, e.g., judges and prosecutors. It is incompatible with the basic philosophy of our legal system. Such immunity encourages frivolous and fabricated accusations. I would go further and recommend that states that include the immunity provision should <u>not</u> be entitled to federal funding. This change alone would have a formidable effect upon the hysteria we are witnessing today. It would, more than anything else, reduce significantly the flood of false referrals being generated at

this time.

2. The clause mandating the reporting of child abuse must be dropped. In practice, it has resulted in the reporting of the most frivolous and absurd accusations by two- and three-year-olds, vengeful former wives, hysterical mothers of nursery school children, and severely disturbed women against their elderly fathers. Highly skilled examiners, professionals who are extremely knowledgeable about sex abuse, examiners who know quite well that the accusation is false, are required by law to report the abuse to individuals who they often know to be inexperienced and even incompetent. Yet they face criminal charges if they do not report these accusations.

3. States in which suspected individuals are deprived of Constitutional due-process protections shall not be provided federal funding. In order to ensure the implementation of this requirement, states must provide verification that their investigatory and prosecutory procedures provide due-process protections before federal funding is made available.

4. The federal laws now provide funding for child abuse research, education, prevention, identification, prosecution, and treatment. Similar funding should be provided for programs designed to assist those who are falsely accused, as well as children who have been victimized by being used as vehicles for a false accusation. States failing to provide similar funding and facilities for the falsely accused and such victimized children should be deprived of federal funding. Such programs could be combined with existing child-abuse and child-neglect programs.

5. The federal law should require investigatory agencies at all levels to routinely notify and invite for voluntary interview(s) every individual accused of child abuse or neglect. (These suspects, of course, must first be informed of their legal rights.) The failure to routinely extend such invitations should deprive the agency of funding.

6. The federal law requires legal representation (a guardian ad litem) for the child victim, but does not require legal representation for the children who are victims of embroilment in false accusations. These children also should be provided with such representation, and the failure to do so should deprive the state of funding.

These proposals are not simply my own. They represent an amalgam of suggestions and recommendations provided by colleagues of mine in both the legal and mental health professions, especially Elizabeth F. Loftus, Ph.D.; Jay Milano, Esq.; Morton Stavis, Esq.; and James S. Wulach, Ph.D., J.D.

In addition to changing the federal law, we need more active backlash by those who have been falsely accused. We need more well-publicized civil lawsuits against incompetent and/or overzealous psychologists, psychiatrists, social workers, child protection workers, "child advocates," police, and detectives whose ineptitude has promulgated a false accusation. I recognize that success in such lawsuits may be difficult, especially in situations in which the vast majority of the defendant's colleagues and peers are operating at the same level of zealotry and incompetence. Furthermore, the falsely accused have to be more active in taking action against lawyers who generate frivolous lawsuits.

Moreover, every attempt must be made, through every possible medium, to bring to the attention of the general public the abomination that we are experiencing at this time. I myself have been an active participant in this realm and believe that some headway is being made. The media's thick wall of resistance to even giving consideration to the views of people like myself is starting to erode; however, I still view the public media as resistant to giving reasonable voice, time, and exposure to those like myself who are trying to bring this hysteria to the attention of the public.

These recommendations should be viewed as initial proposals at this time. I recognize that modifications may very well be necessary before they can be implemented. However, to the degree that these recommendations are implemented, to that degree can we hope for some kind of a turnaround in what is clearly one of the greatest waves of hysteria ever to descend upon the United States. If they are not implemented, there is a high likelihood that the hysteria and the victimization of the falsely accused will continue.

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8. How to Better Distinguish between Real and False Allegations of Child Sexual Abuse

Dean Tong

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REAL ABUSE MUST NOT BE MISSED, FALSE ALLEGATIONS MUST NOT BE CONDONED.

Every American child should have a permanent family to live in, to support and nurture his or her growth and development, and to be free from sexual abuse. The sexual exploitation of children is a problem in this great nation. And the guilty perpetrators of the same face infinitesimal punishments, considering the horrific nature of their acts.

But the despicable cases have been sensationalized by bureaucrats, child savers and the media, and have now caused a proliferation of reported cases. Consequently, sexual abuse allegations, which America perceives as a taboo anyway, carry a covert red flag with them when levied, i.e. the accused is guilty until proven innocent. This allegation is so potent, it has magnetized itself to the empathy of the American public. But by doing so, the mindsets of this same public have caused and exacerbated "A HIDDEN NATIONAL TRAGEDY."

Tong will argue and show the audience bona fide statistics, that will shatter those who claim to protect children from sex abuse, that well over 56% of all sex abuse charges are without foundation, and that in divorce/custody battles, the figures are even higher. Tong will address issues such as the proliferation of anonymous reports and media hype, as being catalysts that "fuel the fire," and grossly inflame real vs. false cases.

Tong will point out that the single most important element in determining a true versus false accusation of sex abuse, lies at the initial investigation stage: WHO is conducting the interview(s)? HOW are the interviews being conducted? Is the alleged crime being investigated, or immediately deemed to be factual and treatment is already being started? Are the investigators social services personnel, or the authorities? Is the child expeditiously taken to the Child Protection Team for a medical evaluation? Tong will address the flaws inherent in child protection teams. What is the mindset of the intake worker, the cop, the therapist, the D.A. concerning the case in specific? cases in general? Were they abused as children? To them, is it a numbers game, i.e. the more investigations, the more state and federal monies are appropriated? What scientific methods were employed to interview the alleged child victim? Were dolls used? Were drawings used? Were suggestive and leading questions and reinforced behavior used? What kind of training does the interviewer have in child development and child pathology? In the usage of doll play? What is his/her belief, as it concerns "children don't lie about sexual abuse, and must be believed at all costs? Was the interviewer well-intentioned, but misguided? Was there a motive on part of the accuser? i.e., was there a divorce, custody battle, visitation dispute already in progress? Did social service do a thorough, competent investigation and exhaust all collateral contacts at the initial state? What is the training and mindset of the Protection Team M.D.? Does he/she diagnose sexual abuse? Sex abuse cannot be diagnosed, because you can't diagnose a crime. Does he/she relay findings of "consistent with" sexual abuse? If so, what is inconsistent with sexual abuse? Are the major term players who investigate the allegations biased against men? The myth is that the natural father is, more times than not, the perpetrator of abuse. The reality is that he is not. Usually, it's the boyfriend or stepfather who commits the act. Are the team players who investigate overzealous? Do they take the position that if we're going to make a mistake, let's make it on the side of the child.

Tong will emphasize the mushrooming number of indeterminable cases that arise. The Woody Allen type cases, where it's HE said, SHE SAID and what a YOUNG CHILD SAID. Tong will address the significance of the SAID and Parental Alienation Syndromes, and the suggestibility of young children, who can be used as pawns in all out wars! Tong points out that it is crucial, that the timing of the allegation be looked at closely in relation to veracity or falsehood. Tong also questions WHO is interviewing the INTERVIEWERS? What makes them EXPERTS?

Tong will point out the usual differences between children who have been abused, versus children who have not. Their behavior patterns. Their reactions to the abuse and the abuser. Their cognitive capabilities. Did the child elicit free recall responses, from his/her own memory, or were the responses induced, or coerced, or learned, via a vindictive parent, or a well-meaningful, but misguided intake worker or therapist?

Tong will emphasize the need for the investigation to seek the truth, to adhere to an objective and impartial fact finding process, where evidence of abuse must be present to warrant a family break-up. Upstanding individuals, and morally valued, innocent American families have been destroyed by false accusations of child sex abuse. Tong will also point out that the continued plea of innocence by the alleged perpetrator, with his/her willingness to do the same, in light of no factual evidence, but a young child's statement, should be gleaned as a hallmark red flag that the case might be a false allegation!

Tong makes a case that the only effective means to

interview young alleged child victims of sex abuse is by videotaped testimony, closed circuit TV and one-way mirrors, and only by trained investigators. Tong will champion Larry Daly from Seattle, Washington as an effective investigator who knows how to interview young children. Tong discounts play therapies and the fact that these cases are hard to prove, because rarely is there medical evidence of sex abuse, therefore children must play with dolls to make up for being incompetent in court.

Tong will also address the need for swift legislative reform at the state and federal level, in order to zero in on the ultimate protection of children. He will champion police investigations, the need for a more lucid definition of what sexual abuse is, the need to track anonymous reporters, and the need to augment the system's accountability and afford the accused his/her right to due process, when accused of this reprehensible crime.

9. What Children Need from Parents After Separation and Divorce

Risa Garon, L.C.S.C.-C., B.C.D., C.F.L.E.; Gina DeLeonardis, L.C.S.W.; Marriet Gailey, L.C.S.W.; Barbara Mandell, R.N., M.A.C.S.; and Jim Holmes, L.C.S.W.

Introduction

Healthy parent-child relationships after separation or divorce require tremendous effort and deliberate work just like parent-child relationships prior to the separation. Close relationships don't just happen because parents love their children. In fact, post separation/divorce provides an opportunity to create a close relationship that may not have existed prior to the separation; reestablishes a prior relationship or enhances an existing one between parent and child. The Children of Separation and Divorce Center (COSD) staff has worked with 4,000 families over the past ten years. The staff has identified specific aspects of the divorce and its impact on the parent-child relationship that need to be addressed. Identifying what parents can do and how they can do it is a positive, non-blaming prescriptive approach to parenting after separation/divorce.

Explaining Divorce to Children

When a child comes off a school bus and finds to his/her surprise, half an empty home, his/her sense of security and lovability are threatened. In contrast, when two parents can respectfully be together to prepare their child for separation and support the child's adjustment, there is a much greater chance for that child to maintain feelings of security and lovability.

What Should Be Included?

1. Acknowledgement that mom and dad have had problems getting along or aren't happy together anymore, in a way that allows each parent to express his/her perspective in a respectful manner.
2. Reassurance of each parent's love for his/her child.
3. Discussion of how life will be:
   a. where parent/child will live
   b. how much time; when child will see each parent
   c. when child can see parent's new house/apartment
   d. space child might have at each parent's home and what he/she can do to fix up this space
   e. permission for children to respond in his/her own way; leaving door open for the same additional questions over time.

What Should Not Be Included?

1. Blaming, accusing other parent
2. Discussing minute financial, emotional details that will worry, confuse child
3. Reassuring a child of parent's love when parent hasn't demonstrated that.

Communication Between Parents and Children

Often parents who don't spend a lot of time with their children or can't because of geographic distance, begin to assume that their children don't care about them. They may feel unimportant and hurt if their children don't initiate contact with them. One parent complained that she called long distance to speak with her children 4 days a week and they only gave her one word answers and would quickly ask "Can we go now?" For some children, having to speak on the phone is like having to respond to "How was your day at school?" Younger children whose concept of time differs, may not have much to say because they are concrete thinkers and need the "event in front of them in order to remember." They may simply not remember what they did one hour before. How, then, can you and your youngster improve communication with each other?

1. Don't stand on ceremony; you're the parent. If you feel hurt that your youngster hasn't called you, state how you feel, such as "I feel hurt that you haven't called in two weeks" rather than not talk to him/her for two months. Express that

you feel hurt because you care about your youngster and want a relationship with him/her.

2. Make time for sharing with each other that includes time without interruptions (phone calls and other people around).

a) Even if it's just five minutes between you and your child, most children feel very special when they have this time with a parent.

b) You and your child may feel awkward, especially if you don't share a daily routine. The more you address the awkwardness, the more you and your child can work toward feeling more comfortable with each other.

c) Understand different phases of development and children's needs and the impact of divorce at each phase. What appears to be ambiguous can become clarified given a developmental context.

3. Parent-child time together varies based on the amount of time they have to be together, the youngster's age and needs. When parent and child can plan pleasurable activities together, they can look forward to their time together (in contrast to watching T.V. all day.) Flexibility in scheduling time with a child based on the child's activities helps reaffirm that the child's life and activities are just as important as the parent's life. For example, if a parent is with his/her youngster and the child has soccer practice on Saturday morning, the parent can arrange for the youngster to be there and plan a parent-child activity around the practice.

4. Parents need to convey to their child that friends are welcome to enjoy time with their youngster and with the parent and child, too. "Down-time" or quiet times where nothing is planned are encouraged to foster a natural, closer relationship between parent and child.

5. As youngsters enter into new development phases, how and when parents spend time with their child needs to change accordingly. An 8 year old may love going skating with a parent on a Friday night; a 12 year old might expect his/her parent to drop him/her off at the rink to meet his/her friends.

Freeing the Child From Being in the Middle

When a marriage ends, society conveys the notion that the relationship between the two partners has ended. However, when children are involved, although the spousal relationship has ended, a relationship between the partners as joint parents of shared children still remains. The quality of this relationship has a major impact on the child's adjustment to the separation and to the quality of life of the child.

Suggestions for an Effective Parent-Parent Relationship

1) From the onset, be aware of the existence of an ongoing relationship with your former spouse as joint parents of your child.

2) Establish frequent, direct communication about the child and his/her needs.

3) Separate your roles as former spouses from your roles as joint parents when discussing parenting concerns. Avoid raising unresolved marital issues.

4) Keep discussions about parenting issues separate from discussions about other issues such as legal or financial matters. This helps avoid spillover of anger regarding these latter issues from interfering with parenting.

5) Communicate directly with the other parent (i.e., do not involve your child as a messenger) regarding arrangements for time with child/shifting households, child care issues, finances, and safety concerns.

6) When both parents are involved in the care of the child, share information regarding school progress, health and social/emotional concerns.

7) Let your child know you are always interested in his relationship with his other parent but do not press your child for information about the other parent of that parent's lifestyle.

8) Reassure your child that he/she is free to discuss your household with his/her other parent. Avoid telling your child information that you don't want shared with the other parent.

9) In general, avoid speaking harshly or negatively about the other parent to (or in the hearing of) your child. On the other hand, if a parent is acting irresponsibly towards your child, it is not helpful to that child to make excuses for the parent. Instead, in a non-attacking manner acknowledge the behavior and your child's feelings. Also, reassure your child that it is not his/her job to defend you if his/her other parent (or relatives) speaks negatively about you.

10) If possible, avoid fighting with your ex-spouse in front of your child. This may mean discussing parenting concerns and legal/financial matters on the telephone rather than during drop off/pick up times. In some cases it may be necessary to avoid physical contact with the other parent in the presence of the children (by remaining out of sight during drop off/pick up times). If fighting does occur, reassure children that as an adult, YOU and not your child are responsible for your emotional and physical welfare. Also reassure your child that fights discussing children are not fights caused by children.

11) If both parents are involved in the care of the child, as parents, discuss and agree upon basic safety measures, rules and consequences, and agree to back each other up regarding discipline. If younger children are involved, agree upon similar routines regarding mealtimes, bedtimes.

12) Remember as a parent you are only responsible for your own behavior and that control for the other parent's behavior lies in that parent's domain. Take responsibility for your role in the parent-parent relationship, even if you feel discouraged by the other parent's behavior. Positive behavior on the part of even one parent goes a long way in helping your child's adjustment to the separation.

Conclusion

We have seen many children and parents work extremely hard on their relationships with each other post separation/divorce. Working with families indicates the insights we have gained from the hard work involved is worth the relationships parent and child create together. Important

feedback about parent-child relationships from our families includes:

- both parent and child need to be willing to work on the relationship
- check out assumptions with each other
- learn how to express feelings to each other without being scared
- listen and understand each other without judgment
- know that there's enough love to go around

Both parent and child need to feel safe in order to trust and open up. Go for it and good luck!

10. Grandparents as Resources for Children and Grandchildren

Ethel Dunn

Executive Director, Grandparents United for Children's Rights, Madison, Wisconsin

The kids are both sick, one with the measles and the other with mumps; you can expect that as soon as one stops scratching he'll start blowing up like a puffer fish and vice-versa; you've just started a new job and absolutely can't be late one more time; you can't afford a "live-in" Nanny (for that matter you can't really afford the day care expenses that keep piling up); the car is ready to fall apart and the rent is due in three days. What should you do?

"Of course! Call mom to come and help out. She loves the kids, has had both measles and mumps and doesn't mind the mess. Matter of fact, she'll probably clean the house between meals and potty calls."

Does that sound familiar? It's certainly not a new concept. Rather, it's probably one that has been used since Biblical times. I have no doubt that Adam and Eve babysat every once in awhile and undoubtedly loved every second of it.

Another scenario — Mrs. Grant and her daughter, Jennie, have had the usual mother-daughter problems that tend to strain a relationship, particularly during adolescence. But Jennie never outgrew her resentment and even though she and her mother both received counseling, the relationship has remained poor and uncomfortable. When Jennie was married her husband took some of the brunt of the anger she held for your mother. Now that she's divorced she's in a dilemma. She hates the feeling of dependency that comes over her every time she enters her birth home. She automatically reverts to being a child and her mother automatically reverts to being a "mother." Her father is no help because all he wants is peace in the family. But, until recently she thought that she needed her parents' help for an occasional day of babysitting, to pay an unexpected bill that wouldn't wait or a ride to work because her car was in the garage. Finally, one day she decided to estrange herself from her parents entirely. Now she adamantly refuses to let them visit with the grandchildren even though her children ask to see their grandparents and her parents beg to see the children.

Or a third case — Mr. and Mrs. Sakman are raising their two young grandchildren. Their son and daughter-in-law are both cocaine addicted and unable to assume responsibility for the kids. As a matter of fact, the children were removed from their birth home two years ago because of severe abuse and neglect. Social services contacted Mr. and Mrs. Sakman and asked if they would consider becoming foster parents so that the children might remain in the family and not be referred to stranger foster care.

Of course, the Sakmans agreed to take in their grandchildren. Now instead of packing their bags for that much anticipated trip to the Greek Isles, they're packing the diaper bags for another trip to the pediatrician.

Each of the above three examples illustrates a form of intergenerational exchange, although on different levels.

What must be stressed at the outset is that grandparents prefer to act as resources to help their children and their grandchildren. IN MOST CIRCUMSTANCES, THEY DON'T WANT TO TAKE THEIR GRANDCHILDREN AWAY FROM THEIR CHILDREN. THEY WOULD PREFER NOT TO START PARENTING AGAIN.

My talk will address the situations described above and show how they are representative of adult interaction in today's social climate. I will talk about how grandparents and other kin can and do act as resources for their children and grandchildren. I will discuss both the functionality of the parent/grandparent relationship and I will also spend a few minutes discussing the opposite spectrum, the dysfunctional parent and grandparent and their interaction. I will propose some methods by which all senior citizens can become pleasantly and synergistically involved in the lives of the middle generation and their children.

Grandparenthood is one of the oldest social roles in the human experience. Furthermore, generational interdependence has been historically operational in American society. While the numbers of grandparents were low at the turn of

the century, this is no longer the case. With increased life expectancy adults experience grandparenthood and, for many, great-grandparenthood. It is no longer unusual for grandparents to have biological children the same age as their biological grandchildren. At a conference recently we were told of a 22-year old grandmother who had an 8-month old child and whose 11-year old daughter had a 3-month-old child.

Approximately 80% of older adults have children. Significantly, 94% of these are grandparents and 46% are great-grandparents. About 83% of grandparents see their grandchildren regularly.

Grandparents provide a number of vital caring and socialization functions that enhance grandchildren, the young in general and society. Intergenerational exchanges offer a number of mutual benefits for younger generations, a sense of purpose for older adults and social wholeness — vital functions when the social fabric is weakened by pressing social problems. Researchers report that grandparents regularly provide a fair amount of goods and services on behalf of their children and grandchildren. Some of the functions that grandparents traditionally assume are: (1) assistance with child care when parents work; (2) a parental surrogate role when parents are inadequately able or unwilling to care for their children; (3) caretakers when parents are ill or in crisis; (4) arbitrators or middlepersons in mediating conflicts between parents and children during times of stress; (5) role models; (6) providers of tangible aid. Grandparents also function as bearers of family history and tradition, ensuring links to the past and opportunities for the young to relate to and represent the generative chain in which the family belongs.

1990 Census Bureau data indicates that out of 91+ million occupied households in the United States, over 63 million children live in households with biological relatives (including parents). Over 4 million children are found to be residing in homes with relatives other than their biological parents, while approximately 4.2 million grandchildren are found in households with grandparents present.

We are living in a country beset by economic and social problems. Unless we can effect a turn-around soon, we will be a country of the "mostly disadvantaged." We are a country in which we are seeing more poor children today (14,341,000) than in any year since 1965. We are also a country where the downtrodden is no longer the other guy but "me." Between 1989 and 1992 nearly one-quarter of the 1.7 million children who fell into poverty lived in two-parent white families, as opposed to single parent ethnic households.

We are a country where children are getting neither a healthy start, a head start, a smart start nor a fair start. We cannot afford to give birth safely, to immunize or provide our children with other health services economically, to educate properly, nor do we have the resources to prevent the violence that accounts for one child being murdered every 3 hours or one child being arrested for a drug offense every 9 minutes.

Our divorce rate keeps soaring and our children and their parents are seen to be sinking deeper and deeper into the depths of despair.

Grandparents, rich or poor, young or old (and the median age of a grandparent is now 54 years), educated or illiterate generally have one thing in common — a desire to assist their children and grandchildren to achieve a higher degree of comfort than they might currently have. Their resource bank can be utilized in many ways. However, steps must be taken first to ensure that everyone is talking about apples or oranges, not apples and oranges.

We must all begin to recognize that the family is not two-generational but multi-generational.

We must be creative in our use of grandparents as they endeavor to act as resources to their children and grandchildren. We must stop relying on outside agencies to intervene to preserve the family and start relying upon ourselves. Departments of Child Protection are in crisis and require time to reestablish their credibility before we can completely depend upon them again with anything but a questioning attitude. There are certainly services for families, but our public system that is charged with serving families falls short in at least two essential ways: (1) they fail to provide early support (teaching families to swim) and instead offer massive, costly and too often, ineffective after the fact investigation and (2) they are too rigid and fragmented to respond to the complex, hard to pigeonhole needs of real children and real families.

Most agencies were not adequately prepared for the increase in case load that the last decade has brought. It would have made no difference, though, because funds were cut dramatically and their staff reduced at a time when such a move was anathema to the social demographics of our society as a whole.

The culture of dependency, addiction, incarceration, violence and illness has taken its toll upon all of us intergenerationally.

I will outline some new ways in which we may be able to utilize the senior citizen as a family resource and tell why I think it would be expeditious of us to implement the concepts. At the same time I will discuss the more traditional ways that grandparents are utilized as resources for their children and grandchildren.

11. The Crisis, Courage and Challenge of Single Parenting

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Overview of Child's Emotional Development During Loss

The world "child" has at least three different meanings. The most widely used is: to be the offspring of a parent. Each child's birthright is to have a Mother and Father living with him full time while growing up.

Every newborn enters the world with a desire to belong that gradually becomes less and less as the parents fulfill the child's needs for nourishment, physical well-being and unconditional love.

A child's first teacher is his parents; they teach their child words, physical movement, how to relate, how to love others and how to love self. As the child develops physically and emotionally, he develops feelings of security, of being loved and learning how to love. Because the family is where these feelings originate, each child views himself and the world through the eyes of his family. Consequently, each child's personal identity is fashioned there.

Just as a man and a woman marry with dreams and hopes of always being together, a child grows up assuming that his parents will always be living with him for protection, for safety, and to keep him healthy and emotionally secure.

When the death of a parent occurs or parents divorce the child's entire world can come crashing in. He may not know what will happen next, who will care for him, or if the remaining parent will also leave.

Tragically, as a marriage is in the process of being dissolved or when a parent has been ill for awhile children seem to be forgotten. Sometimes they are physically neglected: meals are not prepared; laundry is left undone; the home is unkempt; the children are left unattended for long periods of time. Often they are emotionally neglected: they are yelled at inappropriately; given discipline irrationally; or living with a parent who is quiet or sullen.

It is quite natural for parents to want to protect their children from painful events. Consequently, they do not communicate what is really happening in the family. But children have ears that overhear conversations and eyes that see their parents' faces. Children are innocently perceptive and keenly aware of tension, sadness, or anger. It is extremely frightening for a child to feel that, although something horrible is taking place around him, no one will talk about it. When this happens a child struggles to attempt to make sense out of what is happening by filling in the gaps with his own imagined explanations.

Because the death or divorce is taking place in a child's world, these fantasies are often more frightening than the truth. Complicating these imaginings is that young children cannot yet make the distinction between what is real and what is unreal, what is magic and what is logic. The tiger under the child's bed at night is as real as the tiger in the zoo. When a child wishes a bad thing, he believes his wish can make the bad thing happen. This fearful imagining about what is going on only continues and looms larger than life until some adult explains the truth.

Children's Feelings of Self-Worth

Sadly, one of the "realistic" beliefs the child has is that he is somehow responsible for the death or the divorce. He feels and believes that if he had behaved differently, received better grades in school, not quarreled with his brothers or sisters as often, or done his chores more readily, Mom and Dad would not have divorced or the parent would not have died. Feeling responsible for such a family tragedy chips away at the child's self-worth because he cannot "fix" the damage he believes he caused.

Along with the child's self-worth being damaged, his identity becomes blurred as well as the trust in himself and his parents is shattered. Not wanting to worry him needlessly, the child is told repeatedly, "No, Mom and Dad won't ever get a divorce;" or "No, your Mom/Dad won't die." When the reality does take place, the child feels the two people he believed in the most have lied to him. Coupled with the lack of trust, the child may, because of these feelings of guilt, say, "I am bad" and therefore not trustworthy. This lack of self-trust if carried into adult life, will certainly distort his perception of commitments and relationships. In the family that has divorced, the child feels he is being torn like a rag doll because he wants to be with both parents at the same time and this is impossible. Unfortunately, one or both parents may be speaking negatively about the former spouse who, of course, is still the child's present parent. Many times, the child is told different sides of the same story. For the child it is living on a merry-go-round, going up and down and around and around, but there is no attendant to stop the spinning.

When a divorce or death happens in a family, it is as if a tornado struck life's house and destroyed everything that was important. The child then has the task of rebuilding this wreckage and making sense and security out of it. Because the parents are often immersed in their own grief, the child is more alone than ever while he attempts to rebuild.

Mom's House and Dad's House

For the child who loses a parent through death, the intense loss is overwhelming, frightening, and the finality is difficult

to handle. For the child whose parents have divorced, often the fighting continues as he travels back and forth from Mom's house to Dad's house. Divorce does not seem as final as death to a child, so he often clings tightly to the dream that Mom and Dad will remarry each other.

For a child to survive emotionally from the death or divorce, he needs sufficient time to mourn the profound loss in his family. Young children often do not possess the vocabulary to put into words the intense hurt that they are experiencing. They need to have caring adults to gently hold their hearts and bodies while they become angry, withdrawn or cry. They need help to sort through the confusion so they may be able to begin the healing process towards acceptance.

Add the onset of puberty to the above reasons, it is not surprising the adolescent has a difficult time grappling with the divorce/death in the family. Adolescence, alone, is a most difficult stage of a person's life. During this time, the adolescent is changing physically, sexually, socially, spiritually and academically. As well as becoming independent from the family. Coupled with the family loss, this time becomes almost unbearable.

As difficult as it is for adults, the children, regardless of their age, are trying to get firm footing on the foundation of their new family unit. Children from single-parent families will grow into healthy, responsible, emotionally stable adults when they are guided through the grief process. This is accomplished with understanding, acceptance, and love.

Your children are in the process of surviving a very painful family storm. Because of your deep love and concern for their well being, you have committed yourself to this single-parenting program . . . **PRISM.**

After a terrible storm, the outside world looks clear and bright, often enhanced by a rainbow. You and your children will realize that even the most painful of events can become positive experiences that will provide you with the inner strength and peace that you will carry within you throughout life. Together, you and your children can discover that **RAINBOW!**

12. Play Therapy for Adults: Enriching the Child Within

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The expressive therapies of art, movement, song and fantastic storytelling promote creativity in adults and children alike. Adults who allow themselves to experience their own unique creative spirits may be able to wholeheartedly model, rather than discuss, healthy playfulness for children they care for and love.

Summary of Presentation

No one has perfect parents. No one is a perfect parent. It is neither possible nor advisable for parents to meet all the needs of their children after infancy. One mark of maturity is acceptance of the concept of self-parenting which, typically, is more difficult and more crucial in those areas of belief and behavior impacted by unmet childhood needs or wants.

Most adults develop creative and survival strategies for getting on with the process of living despite the idiosyncratic imperfections of their parents. Survival strategies, or those perceived as such, can feel strained, fearful, careful, perfectionistic or inhibited. This workshop defines creative strategies as those enhancing feelings of aliveness, spontaneity, connectedness, trust and playfulness.

The purpose of this workshop is to provide participant adults with playful methods for transforming dysfunctional survival strategies into functional creative ones. A secondary purpose is to increase the awareness to vulnerabilities or biases that may interfere with effective nurturing of real children for whom the adult is responsible.

Putting fun into functional behavior can be concomitant with feeling the distress of the dysfunctional. Since participants of this workshop may or may not be familiar with therapeutic processes, the format is designed to focus on the positive, playful experiences. Oppositional feelings, the distressing ones, will be ventilated through expressive therapy techniques. Adults can expect to sit on the floor, sing, dance, draw, make noises, clap, laugh, cry and gain new respect for their inner child's play style.

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13. Understanding Child Psychotherapy (or) When Talk Isn't Cheap

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Parents are the bones on which children sharpen their teeth.
Peter Ustinov, *Dear Me*.

The use of psychotherapy by both adults and children has increased dramatically in the last 15 years. There has been a substantial increase in the number of kinds of professionals available for psychotherapy services. The prospective consumer faces a choice of 230 types or schools of treatment. Depending on television or the movies for reliable information about psychotherapy amounts to risky business. Kids do not usually refer themselves to a psychotherapist. So parents, who often shell out big bucks for treatment, need to equip themselves with some understanding of what child psychotherapy is all about.

Childhood has inherent difficulties. It is confusing to parents to decide if a child's problems are the usual struggles of development and coping, or if they are dealing with situations that require some guidance or therapy from outside the family. Part of this struggle of knowing what parents can handle is the ever present guilt that parents carry around in surprisingly large quantities.

To have one's child see a therapist does not mean parental failure. Kids don't get broken and don't need fixing. No family is equipped to handle all of children's contingencies. The era of blaming parents hasn't completely died, but is close to its end. Kids are malleable. Depending on the circumstances, usually a small amount of therapy gives good results. In contrast the onset of adult patterns around the age of 20-21, can make psychotherapy a longer process for adults.

Psychotherapy for kids almost always involves parents on some level. (Even with adolescents where the rules about parental involvement are different, there needs to be some parental input). Parents need to provide a description of the difficulty, a developmental and social history and usually are the chief engineers of any environmental changes that will be effected to assist the child. If the difficulties stem from parent-child interactions, the parent(s) may attend the sessions along with the child.

You want to have some sense of what goes on in therapy so that you can feel supportive of the process. Parents should receive some description of the child's problem from the therapist as well as what kind of therapy he or she will pursue with the child. If you are paying big bucks for your kid's therapy and the therapist is playing checkers with your kid, you'll want some reassuring explanations. One should not have to learn a new vocabulary to understand what the therapist is talking about.

When is Therapy A Good Idea?

There's a long list of potential difficulties that can get a child into psychotherapy. Many problems represent snags in the normal developmental process. The list is not complete but generally matches what most therapists see in their practices.

1. Behavior problems. Especially withdrawn, aggressive/hostile, disruptive, unreasonably oppositional kinds of behavior. These kinds of difficulties may indicate other problems or stand by themselves. In any case getting a handle on behavior problems should come sooner rather than later. If you are a step behind your son or daughter when puberty strikes, it's very difficult to catch-up.

2. Peer problems. Kids need to spend a lot of time with their own kind. A kid without friends or one who does not have sufficient skills to keep friends, is a kid with a problem. It is also significant if the friends chosen consistently represent trouble.

3. Parent-child or family conflicts. Living with a kid who can't or won't communicate; where the conflict is frequent, or fights that make the whole household tense, robs you and your child of a close relationship and is one that requires some outside intervention.

4. School problems. There are lots of these. Academic, behavioral, peer, hating the place. For some kids it's like a bad marriage. If the problems are academic then some consideration needs to be given to hiring a specialist in developmental/learning disorders/hyperactivity to see if the academic problems stem from delays or impairments in the child's ability to learn. Of course some school problems are really the school's problems.

5. Anxiety. Childhood is full of anxiety and worry. The world can be scary and few children pass through without some crisis that revolves around anxiety. Many problems with worry and anxiety really masquerade as some other difficulty and so anxiety really can be symptom of some underlying difficulty. Sometimes, problems with anxieties simply represent a lack of skills.

6. Depression. Disappointments and losses are a fact of life and every child becomes briefly depressed until they find a way to restore their self-esteem. However, of concern is the child who has experienced a traumatic loss or uncontrolled traumatic event. Much depression in children is missed because its symptoms are different than adults. Kids are experts in behavior, not language, and so their expression of intense sadness and depression may look like one of the other problems on this list.

7. Habits that are hard to live with or dangerous. Lying, stealing (in the home or community), bedwetting, tics, elaborate time consuming rituals, eating disorders, etc. A few hard to live with habits are better left alone, others must be defined as problems that need immediate attention.

What Kind of Psychotherapy?

There are three kinds or approaches to therapy that offer kids real chances for a successful therapeutic response:

Psychodynamic therapy: Based on the legacy of Sigmund Freud and his disciples. Psychodynamic approaches attempt to explore for the reason of the problem behavior, assist with an understanding of the problem and suggest a comforting, practical solution. Information from the developmental and social histories, play therapy and dreams are the chief components of psychodynamic therapy.

Behavioral/Cognitive therapy: is derived from experimental psychology (the successors to Pavlov and his dogs). Behavioral/cognitive approaches encourage a child to perform appropriately in a given situation, i.e., focuses on the symptom or the "problem" itself. It emphasizes the child learn the skills or acquire the problem solving capacity to handle whatever situation they are currently handling poorly. Changing the environment and how a parent responds to a child is emphasized to encourage "correct" behavior. Meticulous attention is given to gathering detailed information.

Family Systems therapy: developed by many traditionally trained therapists who suggest that patterns of interactions (how people communicate and problem solve) could themselves be problems. Most if not all of the family members might participate simultaneously and be encouraged to replicate the same difficulties as experienced at home or in the community. The therapist then actively assists the family members in exploring and practicing more functional interactions to address the problems that brought people in. It employs techniques and approaches of both psychodynamic and behavioral models of therapy.

You may or may not have a preference for the kind of therapy you would like the child to experience. In the past ten years or so there has been a convergence of how child psychotherapy is done. Gone are the days when advocates of the three major orientations insist their's is the superior approach. In psychotherapy one size does not fit all. Today most therapists agree that "doctrinal purity doesn't get the job done." What is most important is that the therapist have a variety of approaches and skills that are designed for an individual child and his/her parents' individual circumstances. This is referred to as an ecclectic approach.

A couple of examples. Dog bites kid while kid is going to school. Kid no longer wants to go to school and fears dogs. Rather than utilizing a psychodynamic approach that would explore how a child felt and gain insight into the fear of going to school, a behavioral course of therapy would utilize a technique of systematic desensitization so that the child could overcome his/her fear of dogs based on a directive approach. On the other hand, a child who is depressed following the death of a parent, would probably find a psychodynamic therapy approach most beneficial. There, the techniques of exploration and interpretation would be most helpful.

Choosing A Child Psychotherapist

Three disciplines tend to dominate the field of child and adult psychotherapy. In historical order, they are psychiatrists, clinical psychologists and clinical social workers. Some feel that there is a pecking order and that the psychiatrists are on the top, psychologists in the middle and the social workers on the bottom. **What you as a parent need to know when picking your child's therapist is that it is the therapist's skill, expertise and ability to connect with a child that should guide you in your decision.** There are occasions when one profession has an exclusive expertise, i.e., psychiatrists are physicians and can prescribe medications, psychologists administer psychometric tests and social workers tend to pay more attention to the environmental, interactional and cultural issues.

In choosing a therapist there are several additional things to consider.

1. When it comes to kids, specifically your kid, you want someone trained and experienced in working with children.

2. In addition to skills, the therapist should be warm and be able to relate to "connect" with children.

3. As times goes on, your child or you should be able to speak with the therapist about any topic or issue regarding the therapy and its progress. Over time, the child may still not warm up to the idea of therapy but should like the therapist.

4. The child should be making progress even if that progress is painfully slow at times.

5. If the therapist is exploring sensitive or difficult areas of your child's behavior or life's events, the child may be unsettled by the experience. The therapist should let you know this might occur so that you are not caught off guard by his or her resulting conduct, and are available to your child for questions he or she may have.

6. Therapists aren't supposed to be punitive, cold or have perfect children themselves.

7. Unless there is a very specific and good reason, both parents should be involved in the therapy process and should understand how they will be included.

8. How much is this going to cost? What payment arrangements are possible? Will insurance cover it? Many, but not all therapists, will negotiate the fee. Do not feel it impolite to ask. If the therapist is offended you've asked, consider someone else.

9. A parent should not feel undermined in their authority by the therapist. If that feeling does occur, it is essential to speak to the therapist about your concerns.

Finally, some who read this may be more familiar with some sort of evaluation or assessment procedure rather than psychotherapy, which refers to an ongoing therapeutic pro-

cess. The purpose of an evaluation is to answer a question or make recommendations. All psychotherapists spend some time assessing a child's problem, making a diagnosis and formulating a treatment plan. Some skills that an evaluator will utilize will be the same as a psychotherapist would use. However, the purpose and procedure of an evaluation is inherently different from an ongoing psychotherapeutic one.

I have seen some disturbing trends from some mental health professionals in their performance of evaluations. It is disturbing to hear colleagues say to me that they perform their jobs with a bias. It is disturbing to hear colleagues tell you they accept all information given to them by third parties without questioning its veracity. It is disturbing that evaluations are being performed purposefully omitting significant family members. It is extremely disturbing to hear from colleagues that they have abandoned the foundation of their education and training and decline to be objective. A parent should never hesitate to point out these failings if he or she encounters them.

Psychotherapy is not magic or a fraud. Psychotherapists are not gods or shaman; their lives are not different than anyone else's. What psychotherapy does offer is a chance that a child's life can be altered for the better. That's not a bad deal for them as kids or us as parents.

14. Symposium: A New Financial Child Support Guideline for the States to Consider

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Rational Basis is the Key Focus in Emerging Third Generation Child Support Technology

This presentation is a follow-up from the progress report at the 1992 CRC Conference on the development of a prototype child support guideline for states to consider as an alternative to the second generation technology now in use.

First generation: First generation child support "guidelines" were developed in local courts and counties to provide "normative" factual information about actual and reasonable child rearing costs or award levels. "Guidelines" were applied with discretion in the context of principles and detailed considerations provided in statute. *First generation technology was not designed for presumptive use.*

Second generation: The Family Support Act of 1988 mandated *presumptive use* of state-wide guidelines. Second generation technology is much like the first with some very important exceptions. Among them; higher numbers are used, *in-kind contributions* are mostly ignored, and in many states the fundamental principles and detailed considerations *(rational basis)* upon which child support decisions had been based have been eliminated from statutes.

Third generation: The proposed 'third generation' design approach focuses on the need to reinstate fundamental principles in child support law and to provide a 'reality based' framework in which to compare model circumstances with those in an individual case.

In 1992, four separate presentations were given on existing technology, child support policy, studies of the "economic cost" of raising children, and guideline design method. The 1993 goal has been to follow that discussion with a product. A prototype guideline will be presented and a draft report will be provided as a hand-out. Version 1 of the final report is expected within six months of the conference.

Child support guidelines are technology used to assist courts in the application of law; specifically that of awarding child support. It is a matter of first principle that this technology can never meet Constitutional requirements without being firmly grounded in *rational principles* that are clearly pronounced in statute and in which any detailed considerations correspond in some rational way to the reality that must be considered in decision-making.

It follows that it can only be appropriate to apply a child support guideline when (if and only if) it has been shown to correspond to the principles of law that it is expected to uphold. It is also necessary to be able to make a comparison between individual circumstances impacting an award decision and the *model circumstances* corresponding to the routine output of a guideline. The limits to the application of any guideline rule must be understandable to the practitioner.

The *iron triangle* of proper design and use of child support guidelines includes consideration of the circumstances of the family members involved, comparison with the model circumstances on which the routine outcome of the guideline has been based, and the fundamental principles that rule the award decision. An *efficient design* is one in which the routine output of the guideline is carefully matched to the principles that must be applied. A *rational design* is one in which model circumstances are easily comparable to real circumstances.

The following outline provides 10 steps that can lead to development of better child support guidelines.

1. Decide on the general principles that are used to decide a child support award (including the purpose and goal of awarding support). For example; meeting children's physical needs, with each parent contributing in cash and kind in proportion to their relative ability to meet those needs, and each parent has an equal duty to the financial support of their children.

2. Decide upon the factors that are relevant in the decision process. For example; net income of the parents, marital property and its division, amount of time children spend with each parent, basic needs such as food, clothing and shelter, education and day-care, medical expenses, debts, tax law, children of second families, new spouses, etc.

3. Explain in general terms how the guideline is applied. For example; as the first presumption, challengeable by statute and fact.

4. Write a first draft child support statute which explains the purpose and goal of awarding support, the general principles upon which the award decision should ultimately rest, the factors to be considered, and how the guideline fits into the decision process.

5. Restate all the conceptual information in the statute using a more precise language. The new statements must be precise in order to translate them accurately into mathematical expressions. These precise statements are the design criteria that must be met by guideline engineers.

6. Formulate the mathematical and logical steps of the guideline. These steps must be validated in comparison to the design requirements. (For a more detailed explanation of the validation process, see the Pilot Study.)

7. Define the precise need for numerical information from what has already been completed. No data base in the world contains sufficient information to define child support policy. Before you got this far, you had no basis for answering questions about the specific need for numbers. Now you should.

8. Decide on appropriate modifications to the numbers available from various numerical studies. Don't be surprised if data are not available to answer all your questions. In conceptual terms, what is the difference between existing numeric information and what was asked for?

9. Test your model against a broad range of synthetic circumstances. This is a very important step which should be much easier if the guideline was designed carefully. Remember that in practice; litigants, lawyers and judges must repeat this step at every hearing. *Every child support hearing is a field test.* How will they be able to adjust the outcome to account for relevant factors that your committee did and did not explicitly include? Consider the "iron triangle" to judge the quality of the design.

10. Revisit all previous results (repeating any steps as appropriate) applying any new knowledge gained from the experience of working through these steps the first time. (Known as the *learning cycle*.)

What child support doctrine should we use? The prototype presented at the conference will be based on child support statutes and case law that was in effect prior to their replacement in the late 1980s by child support technology. The choice to use the doctrine actually decided upon by state legislatures, as interpreted by state courts, is appropriate for several reasons. Among them is the fact that no one has presented genuine and convincing evidence demonstrating that we should have deviated from those standards.

As a practical matter, it is also far better to transform the child support system one piece at a time in order to avoid chaos. A more competent use of new technology would most likely result if designs are based on laws already understood by family lawyers and judges. By virtue of this same understanding, a more fruitful discussion about proposed changes to child support doctrine should also result. Basing guidelines on rational and widely-understood child support principles should make application of guidelines much simpler, even while supporting a more sophisticated decision process.

The final report, which should be available by November, 1993, will contain examples developed from alternative policy choices. The examples will demonstrate the flexibility and power of the design process described above.

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15. Maximizing Child Support

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Summary

There are two basic ways to increase child support: (1) ensure child support orders are in place, raise the level of child support orders, and vigorously enforce these orders, or (2) structure the child custody/support system so child support is provided more willingly and in abundance. Public policy for the past ten years has been centered on the first approach. This paper considers the second approach.

Two child custody alternatives that may yield greater child support benefits are identified: (1) where all else is equal, to assign primary custody of the children to the parent who is the better provider, and (2) to assign custody of the children to both parents (joint custody or shared parenting) such that each parent provides a maximum amount of direct care for their children.

Besides the traditional use of child support awards to provide funds for care of the children, the use of child support awards to provide an incentive for a parent not to abandon their children, nor to hoard their children (to keep the children from the other parent who wishes to provide care), is explored; the objective is to induce the maximum possible direct care and support by both of the children's parents.

Overview

Over the past ten years, public policy has focused on improving the implementation, uniformity, level, and enforcement of child support awards in order to improve the welfare of children of unmarried or divorced parents. Federal laws have been passed to ensure that fathers of out-of-wedlock children are identified and support orders are put into place. New guidelines for setting child support awards have raised the amounts ordered. States have much increased their efforts to ensure that child support orders are enforced within their boundaries. Further federal efforts are underway for greater interstate enforcement.

These approaches have been moderately successful. The number of orders in place is rising, more support is being paid, and state—and soon interstate—enforcement is becoming more of a reality. But these child support efforts may be nearing their limits as a means to improve the welfare of children. Within some states, further enforcement efforts are costing more than they are bringing in. Yet some children are still not having their needs met. If these needs are to be met, other means need to be considered.

This paper considers how child support could be increased by other means. The approach is to go back and reexamine the child custody/support system to see if it could be restructured so that more parental resources are available for support of the children and support is provided more willingly by the parents. In such a system, the children would benefit and society would benefit. The children would have more support, and society would have lower costs of enforcement.

Analysis

A basic objective is to see that the children are provided for as well as possible by their own parents after their parents separate or divorce.

All parents have limited resources to care for their children. But the amount of resources they have is not fixed. These resources can be increased or decreased by the parents' actions; for example, the parents can choose to work or not. The limited parental resources available to the children can also be increased or decreased by decisions of the court when parents divorce.

At the time of divorce, the court generally makes one parent the primary caretaker for the children—the custodial parent—and orders the other parent—the non-custodial parent—to pay child support to the custodial parent. In setting

the award, the court has traditionally considered the standard of living the children enjoyed prior to the divorce. More recently, guidelines have been developed that base awards on the share of income the non-custodial parent would have been expected to spend on the children prior to the divorce.

The total parental resources available to the children are the sum of the resources of the primary caretaker and the support award. So the designation of the primary caretaker is a key decision in the determination of the welfare of the children. All else equal, designation of the parent with the greatest income as the primary caretaker will yield the greatest total parental resources available to the children.

This is a robust conclusion. If there is a problem in collecting a child support award, as there often is, the children are better off with the parent with the greater income. Furthermore, placing the children with the parent with the greater income frees up the time of the parent with the lesser income to improve their situation. This provides greater potential resources to that parent and ultimately to the children. However, the focus here has been on maximizing only financial resources.

Children's rights organizations are increasingly voicing a broader concept of child welfare that goes beyond traditional concepts of financial child support. They are advocating the goal of providing the children of divorce, as much as possible, with the full set of services that they would have received from their parents had their parents not divorced. Such services include the caring and love of both parents, with fathering and mothering as complementary, not fully substitutable, activities, and access by the children to their full set of relatives and their cultural and familial heritage. These services cannot be fully provided by one parent—either parent—and a child support check.

Under this broader concept of child welfare, the welfare of the children is generally maximized by the court assigning both of the children's parents as primary caretakers. Each parent ideally would take responsibility for direct care of their children about half the time. As would be the case for married parents, each parent would have the primary responsibility for their children's welfare while the children were in their care. Given the difficulty of setting and enforcing child support orders, this approach with its emphasis on direct support by both parents is very appealing.

Under this approach, to the maximum extent possible, the financial interactions between the parents would be limited to working out how to share payment for specific items clearly identifiable as common expenses to both households for the children. This would include the costs of child care and the children's medical expenses.

The principal role of child support in this conceptualization would be to discourage actions by either parent that would leave the children with only one active parent. Children can wind up with one parent in either of two ways: one parent can abandon the children, or one parent can hoard the children.

We are accustomed of thinking of child abandonment or desertion as despicable. In fact, much of our child support system seems to be based on the implicit assumption that the cause of the absence of one parent is abandonment, even though this may not be the case. We are less accustomed to thinking of hoarding of children as a problem; however, under the broader concept of children's needs, a parent seeking sole custody of the children when both parents are fit and willing is doing the children no favor.

Where one parent abandons the children, the traditional assessment of child support seems sound. Besides providing for the children, it acts as an incentive not to desert and as an incentive to return if one does desert. The path to return, however, must be clear. The required child support payment should be reduced if the shirker spends more time with the children. This process would encourage a shirker to take on a more active parenting role.

Under the broader concept of children's needs, a parent's hoarding of their children, beyond their rightful share of their time, should also be discouraged. Child support guidelines could provide financial penalties as a disincentive for such conduct. One way to do this would be to require any parent, say, who wished to move the children away from the other parent to assume full financial responsibility for the children. In addition, they could be required to pay for all costs, including travel, of maintaining contact between the children and the other parent.

Most current child support guidelines not only do not penalize such hoarding, they encourage it. When one parent seeks and obtains sole custody, the custodial parent obtains a child support award. This parent is further rewarded by being allowed to spend the award as they please, with no accountability.

Under the broader concept of children's needs, the current incentive system is seen as harmful to children. Instead of seeking paths to reconciliation at difficult times in their marriage, parents are lured into court where the prospect of winning the children and a support award causes them to become enemies and to focus on the negative aspects of their marriage partner. As a result, more marriages fail, needed family financial resources are drained, and lasting psychological harm is done to all family members. After it is all over, the children are usually left with only one active parent and fewer resources for their care.

Conclusion

This paper identifies two alternative ways in which current child custody/support policy could be modified to increase the support provided to children of separation and divorce. One approach would be to assign primary custody of the children to the parent who is the better provider. The second approach would be to assign custody of the children to both parents (joint custody or shared parenting). In the view of many, the latter approach is the only approach that can provide children of divorce with the kind of complete support they really need.

16. The Use and Misuse of Mental Health Experts in Child Custody Cases — Relocation

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I. Introduction

The purpose of this paper is to briefly and in a general fashion consider the state of affairs involving the use of mental health professionals and their testimony in child custody cases. By mental health professionals I include psychiatrists, psychologists, social workers and court employees who in various states act as friends of the court or investigators/evaluators assisting the court in establishing facts in order to render custody and visitation decisions. My frame of reference is in the state of Connecticut where I have practiced law for more than 25 years. However, as a result of my involvement in national organizations, I feel my Connecticut experience is similar if not identical to the rest of the country.

II. Custody, Visitation and Relocation

What is it that courts are adjudicating when custody is involved? Legal custody involves decision-making, and physical custody involves the physical residence of the children. Decision-making can be broken down into routine, day-to-day type decisions like extra-curricular activities, selection of clothes, types of food, etc. Most agreements and court orders simply let the person who physically has the child make the day-to-day decisions. Decisions involving medical care, education and welfare (whatever that means) are usually left to the custodial or "primary" parent.

Visitation or sharing parenting time equates to the time each parent spends with the child. Traditional plans mean that the custodial parent has the children when there is no visitation with the "other" parent. Traditional visitation is usually alternate weekends, two to four weeks in the summer and alternating school holidays and vacations. Weekends can mean from Friday to Monday morning or anything in between, including four hours on Sunday.

Relocation is that event when (usually) the primary or physical custodial parent wants to move a greater distance away thereby making the existing visitation plan unworkable. Some states simply allow relocation without any criteria other than the moving parent has sole custody, while other states require there to be a legal justification. The former states assume sole custody carries with it all the control and obviously doesn't re-examine the effect of the move on the child. Those courts assume that if the moving primary parent is happy, then the child will be happy. Until recently there has been little or no effort to really test the effect on the child or the relationship of the non-moving parent.

III. Why Are Mental Health Professionals Used?

In the average or normal custody case mental health professionals are frequently asked to give opinions regarding the placement of children, which carries with it the right to make certain decisions. Parents who made certain decisions before the divorce are relegated to consultants at best and onlookers at worst. Imagine the effect on children who see this role shift. The idea put forth by courts and mental health professionals is that ONE person must now make all important decisions even if that person never made them before.

Through the years many mental health professionals have used various yardsticks to render their opinions. Those yardsticks are wielded in a way which leads the courts to believe there is actually some scientific basis to support the notion that there is ONE psychological parent, one PRIMARY parent, one BONDING parent or one NURTURING parent—and these bigger than life single parents are then endowed forever and ever with these omnipotent superpowers without regard to the sex of the child, the age of the child or the temperament of the child-the developmental needs.

In cases of highly dysfunctional families where there is some likelihood of some pathology, I believe that the insights and diagnoses of a psychiatrist or psychologist are useful and important because in those cases there are likely to be mental status examinations and a complete psychological evaluation. In those cases it may really be important to shield a child from too much contact with a particular parent. However, in the average case, mental health psychobabble is all too frequently used to eliminate a parent. Why?

Relocation cases to me are the most stark example of insensitive and unscientific behavior on the part of some mental health professionals. I am biased enough to believe that most judges and lawyers would examine their biases and give way to new recommendations and orders if given appropriate information. I have heard some mental health professionals testify that a child's relationship won't suffer in a relocation three thousand miles away so long as there was "regular" contact with the other parent.

Other mental health professionals have indicated that there is no way a child isn't going to suffer great loss and permanent damage when a move changes the contact from every week (alternate weekends or whatever) to two vacations a year and even the entire summer.

Which of these professionals is correct? My anecdotal experience tells me the latter. My common sense notions tell me the latter. My reading of some developmental psychology articles tells me the latter. So, how come some mental health professionals testify that it is more important that the moving parent be able to move? Is it a difference in training, experience, research (if any), bias, instinct or personalities of the parents that makes the difference? I wish I knew. So do the children!

17. Use And Misuse of Mental Health Experts in Child Custody Cases — Standards

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The usual custody case involves two fit parents who are each seeking to retain substantial involvement in the child's life after divorce. The litigants enter an arena that is designed to pick a winner and a loser in a fight over the most deeply held attachments on earth — the bonds between parent and child. Faced with the conflict between two fit parents and a system that presupposes the reduction of one parent to a mere "visitor," judges are daily tempted to escape or share the burden and responsibility for restrictions that are imposed by the courts upon family members. Which parent will be the loser? Which loss will be less devastating to the child? Thus enters the "expert."

Child custody litigation has experienced an explosive growth in the use and misuse of experts. Experts can be found to testify on behalf of either side on any point. It is, in fact, the pervasiveness of experts that most calls into question the propriety of their use. Does the expert truly illuminate or merely permit the judge to abdicate responsibility for the decision?

The fields of psychology, sociology, and child development are less conducive to objective quantification than are the natural sciences. A civil engineer can quantify the load of freight that will break a particular railroad trestle, but a psychologist can only infer or suggest the load of guilt or rage that will break a particular child. Human variability and the limits of current social science knowledge sharply limit the validity of expert predictions. Equally important is the unique susceptibility of the social sciences to corruption by political agendas and personal biases. Every practitioner knows, for example, of one or more child abuse "validators" who are well-named because they never fail to find abuse.

While society's long-term goal should be an evolution toward a system which recognizes that "the best parent is both parents" and that there should be no presumption of pathology in custody cases, parents must cope with the vestiges of the winner/loser system for now. The Bar and mental health professionals must come together to banish junk science from the courtrooms. The development of reliable data bases to expose and drive out phony statistics is crucial to any claim of scientific reliability. Practitioners should be alert for signs that the judge has abdicated decisionmaking authority to the experts and should insist that any testimony from proposed experts complies fully with the standards for admissibility set forth in the applicable rules of civil procedure. Is the expert really offering an analysis of matters that are beyond the understanding of a layman? Is the expert's method really in accordance with the generally accepted standards of the field?

The temptation to misuse experts in child custody litigations is great. In no other area of law are the stakes so high and the standards so vague. The judge is always tempted to shift or share a terrible responsibility. The parents, facing a devastating loss, are always tempted to seek advantage wherever it can be found. In all cases, one truth remains — misues of experts is an abuse of children.

18. How Parents Can Use Life Insurance to Provide for the Financial Security of Their Children After Divorce

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There is one way that parents can ensure that their children's financial futures are protected before, during and after divorce. This is through the appropriate use of insurance. By securing the child's present and future, parents can do much to help stabilize and minimize the negative impact of divorce upon their children.

The tools you have at your disposal include health, disability and life insurance. Health insurance is often provided by the employer of one spouse or the other before and after the divorce. Additionally, by obtaining disability insurance on the parents, their ability to continue to provide for the children is secured. These two traditional insurances can be continued with very little impact on the delicate balance of the new family situation.

A new program has developed to benefit the children of divorce by providing for their financial future and yet does not require the approval of both parents. This is the use of whole life or permanent insurance to secure the child's financial future. Furthermore, this program ensures that the resources of the individual parent are specifically earmarked for the child (or children) and cannot be taxed or interfered with by anyone.

To do this the parent simply purchases a whole life insurance policy on the child. This is possible because the parent has an insurable interest in the child. Grandparents also have an insurable interest in their grandchildren as do legal guardians in their children. But beyond these categories an insurable interest does not usually exist between individual people.

The parent, as the owner, is responsible for the premium payments and designation of the beneficiaries. The parent is also responsible for the use and stewardship of the cash value as it accumulates over time in the policy.

The cash value accumulates tax-free. It can be used for any major expense including those associated with the child's future or otherwise as the parent so determines. For example, when young children are insured there are often sufficient funds to offset the cost of college. Even if the child is older, it is possible to use later cash value to pay the parent back for the cost of the child's education. The cash value can also be used to provide for those expensive orthodontic braces, a downpayment on a future home, purchase a second automobile or even establish an individual retirement program for the child. The funds can be used for anything the parent believes to be appropriate in his/her capacity as the policy owner.

Protection For Children

Whole life or permanent insurance is the best form of protection for children in this situation. The premiums are level and never increase over time. The cash value accumulates tax-free. At present the cash value is accumulating at the equivalent of 9% (5% is guaranteed) and if the parent's tax bracket is 28%, the accumulation equates to 11.52%. Additionally, the dividends purchase more insurance thereby continuing to increase the death benefit as the child ages. And best of all, the cash value can be withdrawn tax-free (technically as a loan on the policy) for any use including a tax-free retirement.

A simple example demonstrates (figures based on January 1993 data) the strength of whole life insurance as a financial tool to protect the child's future. Assume a parent purchases $250,000 of whole life insurance on his one year old daughter. The premiums will equal $1,278. annually and they never increase as the child ages. By age 18 the accumulated cash value will equal $31,973. and can be withdrawn (for an interest charge) tax-free for any major purchase. At age 65 (if no withdrawals have been previously made) the child has a tax-free retirement of $192,501 annually for 20 years. The 65 years of premium payments will only have cost $83,070. At age 79 (the child's life expectancy) the death benefit will have increased from the initial $250,000 to $1,313,504.

There are two additional benefits to establishing a whole life insurance program for the child. First, the growing death benefit will provide protection to the child's children. Second, as the policy owner the parent can utilize the cash value as he/she deems appropriate. The cash value can even be withdrawn to repay the policy premiums, college costs and any other major expenditures. The policy can then be transferred to the ownership of the child at the same inexpensive annual premium which the child will maintain until his/her retirement and the cash value once again accumulates to contribute to the child's retirement.

To learn more about how you can take advantage of whole life insurance as a means of securing your child's financial future, contact your family life insurance agent or obtain from me a free individual illustration about your own child/children to show you how this new program can work for you.

I can be reached at New York Life Insurance Company, 5109 Leesburg Pike, #900 Falls Church, VA 22041 (703-820-2100).

19. How to Work with the Courts and Commissions

H.W. (Sonny) Burmeister, *State Coordinator, CRC of Georgia*; **Cynthia (Cindy) Lewis,** *State Coordinator, CRC of Virginia*; **David M. Dinn,** *State Coordinator, CRC of Indiana*; **and Harvey Walden,** *State Coordinator, CRC of Maryland*

Working with Courts and Commissions is one of the most important activities of a children's advocacy organization. Raising the level of social consciousness to the plight of children of divorced, separated or unwed parents is not an easy task. There are tremendous myths, folklore and untruths that perpetuate this movement. In addition, one always "assumes" that our elected officials do what is right or just or correct. Most often, they do what is easy or "politically" correct.

"In order to gain the attention and respect of a court or commission, a group or individual must be credible in the minds of that court or commission," states Cindy Lewis. To accomplish that goal takes preparation, preparation, and more preparation. "A feeble attempt can cause irreversible damage to your creditability and be very destructive to future efforts." Cindy recommends doing research on the issues and developing a database.

Some of her "success tips" include:

• Always show respect to the members of the courts and/or commissions. You cannot insult or degrade someone, then expect their help or assistance.

• Focus on the children! Focusing on parents' or grandparents' rights is not what the policy makers want to hear. The compassion is with the children and that is in fact what we are in this for!

• Remain gender neutral. The issues should not be gender based, but logic based.

• Focus on the issues. Discuss and justify general policy and procedures by providing logical (not emotional) argument. Cite credible resources... As a general rule, "do not discuss your personal case"!

• Learn about opposing views and positions and be prepared to rebut those opposing arguments.

• Choose qualified persons within your organization to work with the policy makers—people who can present your group's image well. People who can learn and communicate on the issues effectively.

Harvey Walden encourages his members to testify before these commissions and to even attempt to get on as members of these commissions. Structuring policy instead of reacting to new policies is truly the goal of this movement. Two key points which he shares in his presentation are:

• Have alternate members available to attend meetings or testify at hearings on the designated dates. Conflicts invariably will arise.

• Suggest to the court or commission the preparation of a "minority report" if your views are not reflected in the majority opinion, and be sure this receives equivalent distribution.

David Dinn offers "9 rapid fire steps" to success:

1) Know, believe and be ready to realize that the reforms which we will be responsible for are not to help us or even our own children. They are to help all of society's children.

2) Believe in principles more than people.

3) Don't attack the intent or character of those in policy making positions.

4) Put yourself in the decision making process! Promote the creation of policy making commissions and develop working relationships with those that can appoint you and the people you recommend to the commission.

5) Make incremental written inquiries to policy makers to see if they agree with certain objectives and policy positions of your group.

6) Network with other groups in your state.

7) When testifying, submit to the court or commission a resume of yourself "for the record." It will set you apart from the others and help you appear more professional.

8) Policy makers will take your positions more seriously if they feel you can shape public opinion. To shape public opinion, you must successfully work with the press and media.

9) Remember that throughout history, change sometimes occurs when that first person will stand up and simply say "NO" to injustice.

In Summary:

Your goals in working with courts and commissions cannot and must not be short term or short sighted. You must prepare. You must be informed, knowledgeable and an authority on the issues. You can become a resource for the commission by developing expertise and data backed by research and authoritative persons. You must have qualified personnel in your groups prepared and available to testify. You should set as a goal the objective of getting members on commissions and you can even be the impetus for the creation of commissions. Don't be afraid to criticize the commission or a court, but do not attack the intent or the character of those in policy making positions.

Remember that numbers do count. Use the letter writing capabilities of large numbers of persons to influence decision makers. Use the media and the press to raise the social consciousness and to make it "politically correct" to take your side. Become an informed and involved constituent to your elected officials. Think globally and act locally. All persons of good character want to act "in the best interest of the child." You and your groups must show them just what that includes.

20. Working with the Media and State Legislatures

Eric Anderson,
Coordinator, Children's Rights Council of Texas, and Coordinator of all CRC Chapters

As an activist for social change, your activism may take shape in many forms. You may want to support others by helping them through their trauma, by working locally to reform courts and commissions, or by working state-wide or nationally to effect truly systemic change. What do all these have in common? The need to work effectively with the media and with governmental bodies. The governmental bodies may be local commissioners, courts, state legislatures, or local agencies.

To effect any social change, we must first be able to change public opinion. To change public opinion, we can pass out leaflets on cars, speak at the Rotary club, or get our message out through the print and visual media, the latter providing the greatest coverage and credibility by far. As activists we must learn how to get our message across in order to change the current impressions that have been forced on us by much of the media.

For any activist group to succeed, it must first develop short-term and long-term strategies for developing and working with the media and with state legislatures to get the group's message and agenda across in a cohesive and well-orchestrated manner. There are three plateaus in an organization's development: the beginning, the middle distances, and the long run. Following are the various steps that must be taken within each of these:

The Beginning

- Develop short- and long-term goals;
- Identify your activists;
- Identify your enemies;
- Network;
- Create allies;
- Conduct research and build a good library; and
- Set up phone trees and letter writing campaigns.

The Middle Distances

- Develop strategy and tactics;
- Learn the legislative process; and
- Develop effective speakers.

The Long Run

- Market your concepts;
- Get tax exempt status;
- Persevere; and
- Prevent the burnout of your people.

Lets also look at what goals we might want for our groups. They might include:

- Providing support for your members (this includes emotional, legal, and other support services);
- Effecting legislation that is key to your organization's success; and
- Educating the public, judges, lawyers, and policy-makers about your issues.

No matter what your objectives, you must be able to set realistic goals to ensure your organization's success. Short-term goals may include any or all of the above items. None of these goals can be achieved, however, unless you know who is coming to your meetings, your membership capabilities, and who your enemies are. Know who is coming to your meetings. You may find people with special skills your organization can use, such as people trained in advertising, sociologists, psychologists, professional speakers, printers, business owners, etc. By identifying these individuals, you can put their special talents to work for your organization. Try to bring custodial and joint custodial fathers into your organization, as well as second wives, custodial mothers, noncustodial mothers, and grandparents. This diversity gives your organization more credibility and prevents anyone from "pigeon-holing" you as a non-custodial parents' group, a second-wives' group, etc.

Examples of short-term legislative goals might include passing of less important legislation or getting a legislative committee to investigate an issue of importance to you. This could also include, for example, working on child legislation other than that directly associated with divorce and child support, such as adoption legislation, foster care, etc. This gains your organization respect and prohibits it from being considered a one-issue group. This approach also helps you meet other activists who may be able to help support your agenda or at least provide other assistance. Remember you can never network too much.

Speaking of networking, there are other groups that have goals similar to yours, both at the national and local levels. Find these individuals and groups and network with them. Communicate with their spokespersons, coordinate your activities, but keep your legislative testimony and appearances separate. Also, groups whose views are somewhat peripheral can also provide support, such as CASA or foster care or adoptive rights groups. Even if their agenda and yours aren't similar, you may still find that you can help each other.

Long-range goals include orchestrating a revision in the way officials and the legislature perceive your issues. Long-range goals also include getting to know the new, less powerful members of your legislature, because they may become the powerful players in 3 or 4 sessions. Also find out as much as you can about your legislators, especially how many are divorced and whether they have children.

Once you have set your goals, learn to identify your activists. You will find two types, those in for the long haul

and those who will drop out as soon as their individual problems are solved. To figure out which kind you have, see if they are interested in only changing their situation or in ensuring that the same thing never happens to their children. The latter group will be there for the long-haul.

Know your enemy. Learn who opposes your goals and why. Learn about your opponents' organizations and the characteristics of their membership. This will help you devise a strategy for countering them later. Become members of their organizations, get their newsletters, and learn their tactics. This will prevent you from becoming an unwitting victim later.

Create allies by speaking before groups whose members might share your common interests. For divorce issues, Parents Without Partners could prove to be a hot-bed of activists. For child abuse and neglect issues, some of the support groups such as Parents Anonymous can also be helpful. Even educating their members about your views may help your cause later on. Don't forget to make allies from groups that may not know about these issues, or the Rotary club, the Elks club, etc. The list is as long as your energy. By bringing in or at least sensitizing others unaffected by your issues, you help your long-range goals, and you may find an activist you didn't know you had.

Research your issues and develop a database and library. Rely on professional journals and books and build a library of quality materials. Your networking will help here; don't forget to conduct your own research if you find a void that needs filling.

Develop phone trees and letter writing campaigns. This is a proven method that you can use to flood the legislature and newspapers with phone calls, letters and articles. Prepare by developing reliable captains. When you see articles on custody, child support, or gender bias in the newspapers, start letters to the editor to voice your views and get those issues in the public domain. The letters to the editor column is the most widely read section of any newspaper. This is a free forum that is widely read. If you have individuals who are adept at letter writing, let them write many letters and send them to your membership to sign and mail. You can also use this opportunity to play "bad cop/good cop," a common ploy used by the police. If there are radical letter writers, use your organizational name to write letters that are conciliatory and moderate. This makes your organization the "voice of reason" that it is.

Your group has now made contacts, developed goals, done research, and organized a cohesive network. The next phase is the middle distances. Here you devise your long-term strategy and tactics, learn the legislative process, and develop effective speakers and spokespersons.

Strategy and tactics come from knowing your enemies and allies, your legislature, and the political atmosphere in which you are operating. Tactics should always be clean and professional. This is where you need to rely on professionals you have cultivated during your networking activities. Rely heavily on the professional data you have accumulated in your library and on the testimony of reliable professionals.

Learn the political process. Find out how bills are introduced and how they appear before committees. Most legislatures publish charts showing this process, which can be very helpful. The League of Women Voters is a good source of information on these issues. Know the backgrounds of your legislators and others you want to influence. It is especially important to learn who is an effective legislator and who is not.

Develop effective speakers. You do this the same way a good lawyer prepares a client for trial. Develop speaker guidelines for the issues and disseminate these to all your members. Make sure your speakers learn and can speak intelligently on the issues. Then practice with them so they can experience the "fire" they may expect from a less-than-friendly committee. The Socratic method is the best way to prepare those who will testify on your behalf.

As your organization matures, you will need to develop a marketing program and ways to enable your organization to survive and prosper over the long-haul. Development of an effective marketing program is essential at this point. In lobbying for children, as opposed to lobbying for strictly economic reasons, you must develop a program to convince your legislature and others that your position is the right one, regardless of the opposition.

Your organization should also seriously consider getting tax-exempt status [IRS 501(c)(3) non-profit status], a procedure outlined in the CRC organizational manual. This means that all donations to the organization will be tax deductible for the donor, which will help your organization raise money. Understand the educational nature of your activities; you are helping to educate more than legislate. With non-profit status, your organization cannot endorse or oppose candidates for public office. You can form a separate PAC for this.

Perseverance is the one thing your organization must have to succeed. You can count on it taking 3-4 legislative sessions to effect major changes. You must change attitudes and your credibility as an organization must be established. When working with the legislature, one of the most important things is being there. Attend numerous committee hearings, be there to answer questions, be there both before and after the session to get to know the people behind the scenes.

Last of all, pace yourself. Rely on your activists to spread the responsibility; assign an individual to one bill or issue and let him or her track that bill or issue. Try to get ten activists to work two to three hours a week instead of getting one to work 20-30. Finally, don't forget that you are in it for the long-haul. You are doing what you are doing to effect systemic change, to help those down the line, to help your own sons or daughters.

About CRC

The Children's Rights Council (CRC), also known as the National Council for Children's Rights, is a non-profit [IRS 501(c)3] organization, based in Washington, DC. We are concerned with the healthy development of children of divorced and separated parents. For the child's benefit, we seek means of reducing divorce by strengthening families through divorce and custody reform, minimizing hostilities between parents who are involved in marital disputes, substituting conciliation and mediation for the adversarial approach, assuring a child's access to both parents, and providing equitable child support.

CRC was founded in 1985 by concerned parents who have more than 40 years collective experience in divorce reform and early childhood education.

Prominent professionals in the fields of religion, law, social work, psychology, child care, education, business and government comprise our Advisory Panel.

For further information about membership, publications, cassettes, catalog, and services, write: CRC, 220 I Street, NE, Washington, DC 20002, or call (202) 547-6227 or 1-800-787-KIDS. Our fax number is (202) 546-4CRC (4272).

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New York, New York

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The Center of Divorce and Custody Consultation
Englewood, New Jersey

Debbie Stabenow
State Senate, Michigan

CRC Chapters

CRC seeks to form chapters throughout the country, in order to assist the citizens of each state with that state's unique laws. Custody reform is primarily handled on the state level, although Congress is entering the field more and more. Problems cross state lines. What happens in one state or in Congress affects all of us. We must have a strong national organization, with strong state organizations, to have greater effect on public policy.

If you are part of a national network, you will generally get a better reception than a group that is limited to one state or community.

Coordinators of our state chapters maintain contact by mail exchange and cross-country telephone conference calls between the chapters and CRC national. In this way, chapters can benefit from each other and do not have to constantly "re-invent the wheel."

Chapters exist in 23 states.

If you live in a state where there is a CRC chapter, we urge you to join the chapter. In this way, you will be networking with a chapter and national CRC to reform custody law and attitudes around the country. By becoming a member of the chapter, you also become a member of national CRC.

If you would like to learn if a chapter is forming in your state, or if you would like to form a chapter in your own state or community, write to CRC for our Affiliation Booklet.

This 37-page booklet explains everything you want to know about affiliation.

After reviewing the booklet, write to Eric Anderson of Texas, CRC chapter coordinator, for further information. Eric's address is listed below.

Note: CRC's name is protected by federal trademark law.

National Affiliate Organizations

Mothers Without Custody (MWOC)
P.O. Box 27418
Houston, TX 77227-7418
(713) 840-1626
Jennifer Isham, president

Grandparents United for Children's Rights
137 Larkin Street
Madison, WI 53705
(608) 238-8751
Ethel Dunn

CRC Chapters

Alabama
454 Morphy Avenue
Fairhope, AL 36532
E.D. Wilson, coordinator
(205) 928-0464

Alaska
Alaska Dads and Moms
2225 Arctic Boulevard, Ste 303
Anchorage, Alaska 99503
(907) 274-7358
Gary Maxwell, state coordinator

Alaska Family Support Group
P.O. Box 111691
Anchorage, AK 99511-1691
(907) 344-7707
Jim Arnesen, president

Second Wives and Children
P.O. Box 875731
Wasilla, AK 99687-5731
(907) 376-1445
Tracy Driskill, president

California
Children's Rights Council of California and San Francisco chapter
2547 Noriega Street, Suite 333
San Francisco, CA 94122
(415) 753-8315
Lou Ann Bassan, state coordinator

Children's Rights Council of California
Sacramento chapter
P.O. Box 69711
Sacramento, CA 95860
Patricia Gehlen, chair
(916) 635-2590

Colorado
Children's Rights Council of Colorado
(303) 980-6903
Valerie Ozsu, state coordinator

Delaware
Children's Rights Council of Delaware
P.O. Box 182
Bethel, DE 19931
(302) 875-7353
Bill Barral
(302) 734-8522
James Morning, coordinator

Florida
Florida CRC chapter
113 W. Tara Lakes Drive
Boynton Beach, Florida 33436
(407) 395-5512
Piotr Blass, coordinator

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Georgia Council for Children's Rights
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Marietta, GA 30007-0486
(404) 928-7110
Sonny Burmeister, coordinator

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Children's Rights Council of Illinois
P.O. Box 786
Pekin, IL 61555
(309) 697-3235
Ann Danner, coordinator

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Indiana Council for Children's Rights
2625 N. Meridian, Ste 202
Indianapolis, IN 46208
(317) 925-5433
David Dinn

Iowa
Fathers for Equal Rights, Inc.
3623 Douglas Avenue
Des Moines, IA 50310
(515) 277-8789
Dick Woods, coordinator

Professionals Serving Custodial and Non-Custodial Parents
(515) 264-9511
Eric Borseth, J.D.

Kansas/Missouri
Children's Rights Council of Kansas/Missouri
5516 Mission Road
Fairway, KS 66205-2721
(913) 831-0190
Roger Doeren, coordinator

Kentucky
Children's Rights Council of Kentucky
1645 Robin Rd
Owensboro, KY 43201
502-926-4300 or 502-684-6100
Tracy Cox, coordinator

Maryland
Children's Rights Council of Maryland
417 Pershing Drive
Silver Spring, MD 20910-4254
(301) 588-0262
Harvey Walden, coordinator

Massachusetts
Concerned Fathers of Massachusetts, Inc.
P.O. Box 2768
Springfield, MA 01101-2768
(413) 736-7432
George Kelly, coordinator

Carla Goodwin, Divorce Mediation
820 Washington Street
South Easton, MA 02375
(508) 238-3722

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(616) 247-5868
Heather Rowlison, coordinator

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Wayne, NJ 07470-0615
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Erich Sturn, president

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Children's Rights Council of New York
35 Front Street
Binghamton, NY 13905
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Kim Boedecker-Frey

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9681 Harding Hwy E.
Galion, OH 44833
(419) 845-2572
Kathy Clark, coordinator

Pennsylvania
P.E.A.C.E. (Parents Equality and Children's Equality)
20 1/2 S. Bradford St.
Allentown, PA 18103
(215) 776-4194
Gary Onuschak, coordinator

Texas
Texas Children's Rights Coalition (TCRC)
P.O. Box 12961
Capitol Station
Austin, Texas 78711
(512) 499-TCRC
Eric Anderson, coordinator and nationwide chapter coordinator

Vermont
Vermonters for Strong Families
RR 1, Box 267A1
Heartland, VT 05048
(802) 436-3089
Fred Tubbs, coordinator

Virginia
Children's Rights Council of Tidewater
3029 Yakima Road
Chesapeake, VA 23325
(804) 463-KIDS
Michael Ewing, president
Cindy Lewis, state coordinator

Family Resolution Council
8035 Patterson Avenue
Richmond, VA 23229
(804) 740-9889
Murray Steinberg, president

Fathers United for Equal Rights and Women's Coalition
P.O. Box 1323
Arlington, VA 22210-1323
(703) 451-8580
Paul Robinson, president

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Children's Rights Council

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Surviving The Breakup, by Joan Berlin Kelly, Ph.D. and Judith S. Wallerstein, Ph.D. A longitudinal study of the effects of divorce on children. **BKP-210 — 340 pg. SB $14.00**

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Children's Rights Council

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Organization phone _____ Home phone _____

Work phone _____ If organization is listed in CRC Directory, organization phone number will be listed.

Home and work phone numbers are for CRC internal use only.

Fax number _____ Chapter name, if affiliated with CRC _____

As a member, please send me *Speak Out For Children* (CRC's Quarterly Newsletter), Catalog of Resources (in which I receive discounts) and the following at NO ADDITIONAL COST:

• "A Child's Right — 2 Parents," Bumper Sticker.

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If you are an individual member of CRC, your name may be given on occasion to other children's rights organizations, organizations that support CRC, or individuals seeking a referral for help. If you do not want your name to be given for these purposes, please check here ☐.

Call (202) 547-6227 to charge your membership to a credit card, or send completed form to CRC, 220 I Street, NE, Suite 230, Washington, DC 20002-4362.

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